



Local Taxpayers Bill of Rights and Real Property Tax Payer Programs Under Act 50 of 1998



Commonwealth of Pennsylvania
Edward G. Rendell, Governor
www.state.pa.us

Department of Community and Economic Development
Dennis Yablonsky, Secretary
www.inventpa.com

Manual for Local Taxpayers Bill of Rights and Real Property Taxpayer Programs

Under Act 50 of 1998

Comments or inquiries on the subject matter of this publication should be addressed to:

Governor's Center for Local Government Services
Department of Community and Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, Pennsylvania 17120-0225
(717) 787-8158
1-888-223-6837
E-mail: ra-dcedclgs@state.pa.us

This and other publications are available for viewing or downloading free-of-charge from the Department of Community and Economic Development web site. Printed copies may be ordered and purchased through a private vendor as indicated on the web site.

Access **www.inventpa.com**
Select *Communities in PA*
Select *Local Government Services*
Select *Publications*

Photo Credits

Large Photo: Perry County Courthouse, courtesy of the Perry County Commissioners and the County Commissioners Association of Pennsylvania.

Small Road Project Photo: Courtesy of the Pennsylvania State Association of Township Supervisors.

Acknowledgments

The Governor's Center for Local Government Services prepared this manual with the cooperation and assistance of the Pittsburgh and Harrisburg offices of the law firm of Eckert Seamans Cherin & Mellott, LLC.

The Governor's Center for Local Government Services acknowledges the input and comments received from the Pennsylvania State Association of Boroughs, the Pennsylvania State Association of Township Supervisors, the Pennsylvania League of Cities and Municipalities and the County Commissioners Association of Pennsylvania in the drafting of this Manual.

No liability is assumed with respect to the use of information contained in this publication. Laws may be amended or court rulings made that could affect a particular procedure, issue or interpretation. The Department of Community and Economic Development assumes no responsibility for errors and omissions nor any liability for damages resulting from the use of information contained herein. Please contact your local solicitor for legal advice.

Preparation of this publication was financed from appropriations of the General Assembly of the Commonwealth of Pennsylvania.

Copyright © 2002, Pennsylvania Department of Community and Economic Development, all rights reserved.

Table of Contents

- I. Introduction** 1
- II. Local Taxpayers Bill of Rights** 2
 - Executive Summary 2
 - Applicability of Local Taxpayers Bill of Rights 4
 - Notice and Disclosure Statement Made Available to Taxpayers 5
 - Requests for Information by the Local Taxing Authority 6
 - Notice of Underpayment to Taxpayer 6
 - Appeals by Taxpayer 7
 - Refund Claims by Taxpayer 8
 - Local Taxing Authority Payment of Interest on Taxpayer Overpayments 9
 - Abatement of Penalty and Interest 9
 - Priority of Payment Application 9
 - Installment Agreements between the Local Taxing Authority and the Taxpayer 10
 - Confidentiality of Tax Information 10
- III. Exhibits Related to Local Taxpayers Bill of Rights** 11
 - Exhibit A - First Taxpayer Notification 11
 - Exhibit B - Disclosure Statement 13
 - Exhibit C - Request for Extension of Time to Provide Information 17
 - Exhibit D - Regulations for the LTBR 19
 - Exhibit E - Ordinance Adopting: Regulations, Disclosure Statement,
Petition for Appeal and Refund and Administrative
Appeal Procedures for the LTBR 31
 - Exhibit F - Initial Refund Claim Form 33
 - Exhibit G - Petition for Appeal and Refund 37
 - Exhibit H - Administrative Appeal Procedures 41
- IV. Real Estate Tax Deferral Program Act** 43
 - Amount of Tax Deferral 43
 - Eligible Individuals 43
 - Contents of Application 43
 - Application Procedure 43
 - Attachment and Satisfaction of Liens 44
 - Payment of Deferred Taxes 44
- V. Homestead Property Exclusion Program Act** 45
 - Reassessments 45
 - Limitations on Exclusion 45
 - Application Procedure 46
 - Appeals Procedure 46
 - Penalties for False Application 46
 - Assessor Reporting Requirements 47
 - Notification Required on Change in Use of Property 47
 - Exclusion for Farmstead Property 47

I. Introduction

On May 5, 1998, the Pennsylvania General Assembly enacted Act 50 of 1998 ("Act 50"). Act 50, in part, created several new subchapters in Title 53 of the Pennsylvania Consolidated Statutes (Municipalities Generally). Three of these new subchapters relate to local tax administration and procedures and authorize local governments to establish programs for real estate tax deferrals and for homestead property exclusions from real property taxation. The three subchapters are the following:

1. Local Taxpayers Bill of Rights,
2. Real Estate Tax Deferment Program Act, and
3. Homestead Property Exclusion Program Act.

Each of these acts is the subject of a separate section of this manual and will be identified as Parts I, II and III. Special emphasis is placed on the Local Taxpayers Bill of Rights with a model ordinance and sample forms being included in order to assist local governments in implementing and complying with the requirements of the Local Taxpayers Bill of Rights.

This Manual does not discuss the subchapters and provisions relating to school district tax reform and debt limitations, the technical amendments to the Local Government Unit Debt Act and other miscellaneous provisions included in Act 50.

Please note that the sample ordinance and forms included within this manual are models and should be used only with the appropriate changes and completions to reflect the actual circumstances of the political subdivision. Local government officials should consult their solicitors about the use and modifications of these sample documents prior to use. The Governor's Center for Local Government Services, the Department of Community and Economic Development and Eckert Seamans Cherin & Mellott, LLC, do not intend to provide and are not providing legal advice with this manual. Local government officials are advised to consult with their solicitors for specific legal advice regarding the requirements and implementation of the Local Taxpayers Bill of Rights, the Real Estate Tax Deferment Program Act and the Homestead Property Exclusion Program Act.

II. Local Taxpayers Bill of Rights

Executive Summary

The Local Taxpayers Bill of Rights (the "LTBR"), 53 Pa. C.S. §8421 et seq., requires political subdivisions levying certain local eligible taxes ("Eligible Taxes") to adopt rules and regulations for practice, procedure and administration in the audit, assessment, appeal, determination and collection of such Eligible Taxes.

Eligible Taxes

The Eligible Taxes (including interest and penalty) subject to the requirements of the LTBR include the following taxes:

1. Any tax authorized or permitted under the Act of December 31, 1965 (P.L.1257, No. 511), known as the Local Tax Enabling Act.
2. Any per capita tax levied under any act.
3. Any occupation, occupation assessment or occupation privilege tax levied under any act.
4. Any tax on income levied under any act.
5. Any tax measured by gross receipts levied under any act.
6. Any tax on a privilege levied under any act.
7. Any tax on amusements or admissions levied under any act.
8. Any tax on earned income and net profits.

Taxes levied under the Local Tax Enabling Act, commonly called Act 511, include, but are not limited to, per capita tax, earned income tax, amusement, admission, occupation tax, occupational privilege tax, business privilege tax, net profits tax, business privilege and gross receipts tax, mercantile tax and parking tax.

The LTBR does not apply to real property taxes.

LTBR Requirements

Political subdivisions are required to adopt rules and regulations that:

1. Inform taxpayers of their rights during an audit or administrative review of their records.
2. Set forth the obligations of the local taxing authority during such an audit or administrative review, including providing time periods for taxpayers to respond to requests for information.
3. Establish administrative appeal procedures.
4. Establish procedures for filing and processing refund claims, including providing for the payment of interest on tax refunds.
5. Set forth enforcement and collection actions.

Explanation of Requirements

Following this Executive Summary is a detailed description of the LTBR and the actions necessary in order for a local government to comply with the LTBR. Following this is a model ordinance and a number of forms (Exhibits A through H), which provide examples of the notice, disclosure statement, rules and regulations and appeal procedures required under the LTBR.

Implementing Compliance

The following summarizes the basic steps a local government should take to comply with the LTBR and includes references to the description and to the relevant form documents included here as exhibits.

1. Identification of all of the local government's Eligible Taxes and who collects each of them. (Pages 7-8)
2. Designation of contact person, department or agency. The name of the designated contact should appear on the Tax Notice (Exhibit A), which is to be included on all correspondence with taxpayers regarding any audits, reviews and assessments of Eligible Taxes. (Page 9)
3. Adoption of a Disclosure Statement that will be distributed by the designated contact, free of charge, to any taxpayer who requests one. This is the written explanation of the taxpayer's rights. (Exhibit B, Page 9)
4. Adoption of administrative appeal procedures for taxpayer appeals. The LTBR provides four alternatives for administrative appeal procedures: (Exhibit H, Pages 11-14)
 - Appointment of a Local Tax Appeals Board.
 - Review by governing body in executive session.
 - Appointment of a hearing officer.
 - Continuation of an existing appeal procedure substantially similar to one of the three processes referenced above.
5. Adoption of Rules and Regulations (Exhibit D). Regulations must include procedures for the administration, collection and appeals process for each eligible tax levied by a municipality. (Pages 11-13).

Ordinance or Resolution

The LTBR does not state whether the required notice, statement and administrative appeal procedures are to be adopted by ordinance or resolution. Although the LTBR does not cover this issue, local governments should consult their solicitors, local rules and past practice to determine whether adoption should be by ordinance or by resolution. This manual includes a form of ordinance (Exhibit E) for adopting the LTBR's required procedures and forms. If the local government solicitor advises adoption by resolution or local practice permits adoption by resolution, the enclosed ordinance may be modified accordingly.

Effective Date

The effective date of the Local Taxpayers Bill of Rights was January 1, 1999 for compliance by local governments. The LTBR, however, does not contain specific penalty provisions in the event a local government is not in compliance by that date.

Applicability of the LTBR

The Local Taxpayers Bill of Rights (the "LTBR") requires **local taxing authorities** to adopt notice, disclosure and appeal procedures in connection with the administration, collection, and audit of certain "eligible taxes." These disclosure and appeal procedures must inform taxpayers of their rights to appeal the tax levy. The LTBR further authorizes local taxing authorities to request information and documentation from taxpayers in audits and assessments of taxes, and requires the local taxing authorities to develop and publish procedures for requesting such information.

Under the LTBR, the term "**local taxing authority**" is defined as a **political subdivision** levying an eligible tax and includes within the term any officer, agent, agency, clerk, income tax officer, collector, employee or other person to whom the **governing body** has assigned responsibility for the audit, assessment, determination or administration of an eligible tax. A **political subdivision** includes any county, city, borough, incorporated town, township, school district and county institution district. The definition of a local taxing authority, however, does not include a tax collector or collection agency who has no authority to audit a taxpayer or determine the amount of an eligible tax, or whose only responsibility is to collect an eligible tax on behalf of the governing body. The exhibits contained in this manual refer to the local taxing authority as the "Tax Administrator."

The LTBR defines a "**governing body**" to include:

1. City council.
2. Borough council.
3. Incorporated town council.
4. Board of township commissioners.
5. Board of township supervisors.
6. A governing council of a home rule municipality or optional plan municipality.
7. A governing council of any similar general purpose unit of government which may be created by statute.
8. A board of school directors of a school district.

In general, the governing body is the entity required by the LTBR to adopt appeal procedures, a form of petition, and regulations governing practice and procedure under the LTBR.

Eligible taxes (including interest and penalty) subject to the requirements of the LTBR (53 Pa.C.S.A. §8422) include:

1. Any tax authorized or permitted under the Act of December 31, 1965 (P.L.1257, No. 511), known as the Local Tax Enabling Act.
2. Any per capita tax levied under any act.
3. Any occupation, occupation assessment or occupation privilege tax levied under any act.
4. Any tax on income levied under any act.
5. Any tax measured by gross receipts levied under any act.
6. Any tax on a privilege levied under any act.
7. Any tax on amusements or admissions levied under any act.
8. Any tax on earned income and net profits.

Taxes levied under the Local Tax Enabling Act, commonly called Act 511, include, but are not limited to, per capita, earned income, amusement, occupation, and occupational privilege taxes.

Except for the provision relating to interest on overpayments (discussed below), the provisions of the LTBR do not apply to any tax on real property. See 53 Pa.C.S. §8438. It is unclear, however, whether all of the provisions of the LTBR are to apply to realty transfer taxes enacted under the Tax Reform Code of 1971 in 72 Pa.C.S. §8101-D. Since some realty transfer taxes are enacted under Act 511, they are clearly covered by the LTBR. While this result does not appear to be the intent of the General Assembly in enacting LTBR, it is still the result from a strict reading of the statute. The forms, regulations and notices contained in this manual do not attempt to cover realty transfer taxes since such taxes are collected by the county recorder of deeds. The issue is unclear, however, and it should be discussed with your solicitor.

The following discussion summarizes the rights of local taxpayers, including the availability of certain disclosure statements, the minimum time periods within which a taxpayer must respond to informational requests by the local taxing authority and extensions of such time periods, appeal periods and refunds with interest, as well as the obligations of the local taxing authority including making available disclosure statements, a form of petition, abiding by the specified response and appeal periods and paying refunds.

Notice and Disclosure Statement Made Available to Taxpayers

Notice

The LTBR requires the local taxing authority to create a disclosure statement and to notify taxpayers of its availability whenever the local taxing authority contacts a taxpayer regarding the assessment, audit, determination, review or collection of an eligible tax. The notice must conform to the following format:

You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes by calling [name of local taxing authority] at [telephone number] during the hours of [hours of operation].

A form of the Taxpayer Notice is set forth in Exhibit A of this manual. This notice form has been expanded by the preparers of this manual to make it more helpful to taxpayers. This notice should be provided as the Taxpayer Notice (Exhibit A). The preparers also recommend that this notice, or the contents thereof, be included in any other communications to the taxpayer including tax bills and tax returns.

Disclosure Statement

Copies of the disclosure statement must be made available to taxpayers upon request and at no charge. Please note that local governments are not permitted to assess taxpayers a fee for the cost of providing the disclosure statement. The disclosure statement must contain information about:

1. Rights of a taxpayer and the obligation of the local taxing authority during an audit or an administrative review of the taxpayer's books or records.
2. Administrative and judicial procedures by which a taxpayer may appeal or seek review of any adverse decision of the local taxing authority.
3. Procedures for filing and processing refund claims and taxpayer complaints.
4. Enforcement procedures.

All of these provisions are required to be set forth in simple and nontechnical terms. A form of Disclosure Statement is contained in Exhibit B in this manual.

Requests for Information by the Local Taxing Authority

The LTBR contemplates that local taxing authorities are permitted to request information from a taxpayer beyond what the taxpayer has provided on a return or report. Although there is no specific form required, a request for information should:

- Be in writing.
- Be entitled "Request for Taxpayer Information."
- Include a statement regarding the consequences of a failure to respond (i.e., an assessment will likely be made).

The taxpayer must be given at least 30 days from the date of the mailing of a request for information to respond, and the local taxing authority must grant additional reasonable extensions of time when the taxpayer applies for an extension and has good cause for requesting it. The procedures for obtaining an extension must be set forth in the local taxing authority's initial request for information. The LTBR prohibits the local taxing authority from taking any action against the taxpayer until the expiration of the response period, including any extensions. The "reasonable period" for an extension is not defined in the LTBR. It is the view of the authors that extensions of 30 days should generally be found reasonable, but no maximum or minimum are required in the LTBR. The local taxing authority should require a reasonable written explanation before granting an extension. The local taxing authority must also provide written notification of an extension denial with reasons therefor. A Form of Request for Extension of Time to Provide Information is contained in Exhibit C of this manual.

An initial inquiry by the local taxing authority 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. If the local taxing authority determines that the taxpayer 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, the local taxing authority can make subsequent requests for information. However, if the local taxing authority 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, the three-year time limit for the initial request does not apply, and a request for information may be made at any time. A local taxing authority should not make routine requests for prior year returns required to be filed more than three years prior to the notice date.

If the local taxing authority can demonstrate that information contained in the taxpayer's federal tax return is reasonably necessary for the enforcement or collection of an eligible tax, and the information is not available from other sources or the Pennsylvania Department of Revenue, then the local taxing authority may require a taxpayer to provide a copy of the taxpayer's federal income tax return (i.e., Form 1040, Form 1120, Form 1120-S, Form 1065). The local taxing authority also may request copies of the Pennsylvania income tax return from the taxpayer.

Notice of Underpayment to Taxpayer

If a local taxing authority asserts that an underpayment exists, it must give notice to the taxpayer in writing of the basis for the underpayment. The notice must be written in simple, nontechnical terms capable of being understood by an average person and the notice must include:

- The tax period or periods for which the underpayment is asserted.
- The amount of the underpayment determined by tax period.
- The legal basis upon which the local taxing authority has relied to determine that an underpayment exists.
- An itemization of the revisions made by the local taxing authority to a return filed by the taxpayer that resulted in the determination that an underpayment exists.

If a return or report is revised, the local taxing authority generally should provide a copy of the revised return or report to the taxpayer. This manual refers to this notice as the "Assessment Notice." The purpose of the Assessment Notice is to provide information to the taxpayer sufficient for the taxpayer to determine the amount of the assessment and the reasons for it.

Appeals by Taxpayer

Under the LTBR, taxpayers may appeal a decision of the local taxing authority by filing a petition (the "Petition") for reassessment within 90 days of the date of the Assessment Notice. Appeals from denials of refunds must be filed within one year of the refund or three years from the due date for payment of the tax, whichever is later. Refunds and appeals from refunds are discussed separately on pages 13 and 14. The LTBR does not define the date of the Assessment Notice. Accordingly, it is recommended that the 90-day appeal period begin running on the date the Assessment Notice is mailed by the local taxing authority. This may be decided through the litigation process in the future.

The LTBR requires that the governing body adopt regulations specifying the form and content of petitions (and for petitions for refunds, discussed below), including the process and deadlines. A sample form of a petition is included in this manual as Exhibit E. A sample of the administrative appeals procedures is included in this manual as Exhibit F.

The LTBR requires that the governing body of the local government establish an administrative appeals process to receive and make determinations on petitions from taxpayers relating to the assessment, determination or refund of an eligible tax. There are four options for administrative appeals processes authorized by the LTBR:

1. **Tax Appeals Board.** This option calls for review and decision or hearing and decision, by a local tax appeals board appointed by the governing body. The board must consist of at least three, but not more than seven, members. The governing body must determine qualifications for service on the board and compensation, if any, of the members. The governing body may enter into agreements with other political subdivisions to establish a joint local tax appeals board.
2. **Governing Body in Executive Session.** This option calls for a review and decision by the governing body in executive session. There is no maximum or minimum number of persons. However, a quorum should be present. In addition, no hearing, oral testimony or oral argument appears to be required by the LTBR, although hearings are likely to be permitted at the discretion of the governing body.
3. **Hearing Officer.** This allows for a hearing and decision by a hearing officer appointed by the governing body. It is the governing body's responsibility to determine the qualifications and compensation, if any, of the hearing officer.
4. **Grandfathered Appeals Process.** The final option is an administrative review or appeal process existing on the effective date of the LTBR (January 1, 1999), provided it is substantially similar to the procedures set forth in one of the first three specified administrative appeals processes.

The governing body of a political subdivision levying an eligible tax must select and establish one of the above listed administrative appeals as the political subdivision's administrative appeals process relating to an eligible tax.

Listed below are a number of advantages/disadvantages to each of the above options for consideration by local governments:

- A hearing officer may be an elected or appointed tax collector who has considerable experience and qualifications for adjudicating appeals. However, some have argued that appointing a tax collector as the person

hearing appeals is not fair to the taxpayers and arguably violates the intent of the LTBR to provide a fair and impartial review of a taxpayer's position.

- Appointing a tax appeals board or a joint tax appeals board with other political subdivisions may be attractive due to the impartiality and anticipated fairness of these neutral arbiters. A joint tax appeals board appears to be a sensible option where taxes are jointly collected among local governments such as is often the case with the earned income tax under Act 511. However, the selected appeals board members may have no expertise in municipal tax laws and may often choose to side against the government entity seeking to collect a tax.
- A tax professional chosen as a hearing officer or an appeals board member could be helpful in providing tax expertise, but is likely to require compensation. Paying a tax professional to be a hearing officer or member of an appeals board could be quite expensive.
- The governing body of the political subdivision could agree to decide tax appeals in executive session. One advantage is that oral hearings are not required for the governing body option. But, does a school board or board of township supervisors really have the expertise to be the arbiters of local tax disputes? And, should they be taking the time required to decide such disputes?

The choice of an appellate body is a complicated one, which should be discussed by all appropriate parties. A local government may even desire different appeal processes for different taxes. Advice from your solicitors is highly recommended.

Local governments are advised to use consistent practice and procedures in hearings. The sample regulations (Exhibit D) attempt to cover the conduct of these tax appeals. However, Local Agency Law does not apply to these appeals and the appeals are not governed by technical rules of evidence.

After the appeals board or hearing officer has received a complete and accurate Petition, decisions on the Petition must be issued within 60 days from the date it is received, with failure to act within the 60 day period resulting in the Petition being deemed approved by the appeals board or hearing officer. A taxpayer or the local taxing authority can appeal an adverse decision on a petition to the Common Pleas Court of the county. Appeals to the Common Pleas Court must be made within 30 days of the date of the adverse decision. 42 Pa.C.S. §5571(b).

Refund Claims by Taxpayer

The LTBR allows a taxpayer to file a request with the local taxing authority for refund or credit of the eligible tax, as long as such a request is made within three years of the due date for filing the report or tax return (with allowable extensions) or one year after actual payment of the tax, whichever is later. If no report or tax return is required for the tax, a taxpayer must make a refund claim within three years after the due date for payment of the eligible tax or within one year after actual payment of the tax, whichever is later. It appears that the LTBR will allow refund claims to be filed starting January 1, 1999, or 1996 (and later years) taxes. For amounts paid after receipt of an Assessment Notice, the taxpayer must make a request for refund to the local taxing authority within one year of the date of the payment. A tax return filed by the taxpayer showing an overpayment will also be deemed to be a request for a cash refund unless otherwise indicated. It is recommended that taxpayers make a written request for refund on a pre-printed form adopted by the local taxing authority. A form of Initial Refund Claim Form to be used for this purpose is included in this Manual as Exhibit F. If a refund claim is denied by the local taxing authority, the taxpayer can file a petition for refund with the hearing officer or appeals board. A petition for refund must be filed within the same time limits that apply for a claim for refund and under the same administrative appeals procedures that apply to appeals of assessment. **Note that an appeal of a refund denial is subject to the same time limits that apply to a claim for refund.** Therefore, the LTBR may be read to mean a taxpayer who files for a refund on the last possible day may forfeit the right

to administrative appeal. On the other hand, the LTBR specifically states that the principles of equity apply in interpreting the statute. Thus, it may be argued that the filing of a request for a refund "tolls" the time limits for the administrative appeal process. The language of the LTBR is ambiguous in this respect, and it is likely that the issue must be resolved through litigation in the future. In addition, a taxpayer can choose to ignore the suggested form of Initial Refund Claim and instead choose to file a Petition. The Petition for Appeal and Refund form (Exhibit G) can be used for such an appeal of a refund claim denial.

Local Taxing Authority Payment of Interest on Taxpayer Overpayments

The LTBR requires a local taxing authority to pay simple interest on overpayments of tax at a rate equal to what the Commonwealth of Pennsylvania pays under the Fiscal Code, unless the overpayment is refunded or applied against other taxes, interest or penalties of the taxpayer within 75 days of the later of: (i) the due date for filing the report of the tax liability or (ii) the date the return or report is filed. If interest is required to be paid it shall start on the Date of Overpayment and end on the Date of Resolution. For a cash refund, the Date of Resolution is a date preceding the actual date of the refund check by not more than 30 days. If there is a credit of an overpayment, the Date of Resolution is the date of the local tax authority's notice to the taxpayer of the determination of the credit, or the due date for payment of the tax against which the credit is applied, whichever first occurs. As of December 1998, the Commonwealth of Pennsylvania's interest rate on overpayments was 9% (.000247% daily). This information is available on the Pennsylvania Department of Revenue's website at www.revenue.state.pa.us. The taxpayer's acceptance of the local taxing authority's check does not prejudice any right of the taxpayer to claim additional overpayment and interest.

Abatement of Penalty and Interest

The LTBR allows the local taxing authority to abate (i.e., reduce) all or any part of interest due on an eligible tax if the underpayment is in whole or part due to an error or delay by the local taxing authority (or its officers, employees or agents) in performing a ministerial act, and no aspect of the error or delay can be attributed to the taxpayer. If a local taxing authority chooses to give written advice to a taxpayer and that advice is erroneous, but the taxpayer reasonably relied on such advice and did not fail to provide adequate or accurate information to the local taxing authority, then the local taxing authority is required to abate the penalty and interest that results from such erroneous written advice. This provision is likely to reduce the number of local taxing authorities that issue written advice to taxpayers, particularly since the LTBR clearly makes the issuance of written advice optional in the sole discretion of the local taxing authority.

Priority of Payment Application

When a taxpayer makes a voluntary tax payment to a local taxing authority, the LTBR provides that unless the taxpayer specifies otherwise, the local taxing authority must apply the tax payments in the following order of priority: (i) tax, (ii) interest, (iii) penalty, and (iv) any other fees or charges. The local taxing authority, however, retains the discretion to apply the tax to the current tax year's tax due, or to a previous year's unpaid tax.

Installment Agreements Between the Local Taxing Authority and the Taxpayer

The LTBR permits a local taxing authority to enter into a written installment agreement with a taxpayer for the payment of eligible taxes, if the local taxing authority determines that the installment agreement will facilitate collection. The LTBR provides that a local taxing authority may terminate an installment agreement under defined circumstances. An installment agreement may be terminated if the taxpayer provided inaccurate or incomplete information in its application for an installment agreement or if the collection of tax under the agreement is in jeopardy. Termination is made in the discretion of the local taxing authority. In addition, the local taxing authority may alter, modify or terminate an installment agreement if the financial condition of the taxpayer has significantly changed, or if the taxpayer fails to: (a) pay any installment at the time that it is due; (b) pay any other tax liability at the time it is due or (c) provide a financial condition update upon request. It is likely that the local taxing authority may demand payment in full if the taxpayer violates (a), (b) or (c) above. However, prior to the alteration, modification or termination of any installment agreement due to a significant change in the taxpayer's financial condition, the local taxing authority must first give the taxpayer at least 30 days written notice stating the reasons for the alteration, modification or termination of the installment agreement before taking any such action. No such notification is required for any alteration, modification or termination of an installment agreement that occurs due to causes set forth in (a), (b) or (c).

The LTBR does not provide a procedure for appeal if a taxpayer disputes the alteration, modification or termination of an installment agreement. Accordingly, the taxpayer's only remedy is an appeal to the Common Pleas Court.

Entering into an installment agreement does not prevent a taxpayer from prepaying any tax under such agreement.

Confidentiality of Tax Information

The LTBR provides that all information gained by a local taxing authority as a result of any audit, return, report, investigation, hearing or verification is confidential tax information. It is unlawful for a local taxing authority (except for official purposes or as provided by law) to divulge confidential tax information. A violation of this provision can result in the imposition of a fine of not more than \$2,500 and/or imprisonment for not more than one year. If the offender is an officer or employee of the local taxing authority, such person must be dismissed from office or discharged from employment. Given the onerous consequences of disclosure of confidential tax information under the LTBR, a local taxing authority should carefully review its procedures for the disclosure of taxpayer information to third parties to ensure that no inadvertent tax disclosure occurs.

III. Exhibits Related to Local Taxpayers Bill of Rights

Taxpayer Notice

[Form of notification to be included by Tax Administrator with any assessment, audit, determination, review or collection of an eligible tax.]

[Insert Name of Tax Administrator]

Availability of Disclosure Statement Pursuant to the Local Taxpayers Bill of Rights

Taxpayer Name and Address:

Re: **[Insert Eligible Tax Subject to Assessment, Audit, Determination Review or Collection]**

You are entitled to receive a disclosure statement that sets forth a written explanation of your rights with regard to the assessment, audit, determination, review, appeal, enforcement, refund and collection of local taxes by calling **[insert name of Tax Administrator]** at **[insert telephone number]** during the hours of **[insert hours of operation]** on any weekday other than a holiday.

You may request a copy in person, by telephone or by sending a request to the following address: **[insert Tax Administrator's address]**.

Please Note: The Governor's Center for Local Government Services recommends that this document be reviewed by the Local Solicitor before use.

[Insert Name of Political Subdivision]
Disclosure Statement Under
The Local Taxpayers Bill of Rights

It is the obligation of all taxpayers to voluntarily file all local tax returns and pay all local taxes to which they are subject. However, when the duly appointed or elected tax collector or tax collection agency for the municipality and/or school district in which the taxpayer resides determines that a required return has not been filed, or a tax liability has not been paid, the Local Taxpayers Bill of Rights grants certain legal rights to taxpayers, and imposes obligations on taxing authorities to ensure that equity and fairness guide local governments in the collection of taxes. In addition, the Local Taxpayers Bill of Rights provides the local government entity with certain legal methods to enforce taxpayer obligations. **This Disclosure Statement sets forth your rights as a taxpayer in connection with any audit, examination, appeal or refund claim of taxes for the [Insert name of political subdivision], and any enforcement or collection actions taken by the [Tax Collector] [_____ Joint Tax Bureau] [Insert name of other tax collection agency] (the "Tax Administrator") on behalf of [Insert name of political subdivision].**

Applicability/Eligible Taxes

This Disclosure Statement applies to all eligible taxes levied by **[Insert name of political subdivision]**. For this purpose, eligible taxes do not include real property taxes. The specific eligible tax(es) levied by **[Insert name of political subdivision]** are: (1) _____; (2) _____; and (3) _____. **[Insert specific eligible taxes as applicable.]** Unless expressly provided in the Local Taxpayers Bill of Rights, the failure of any person acting on behalf of the Tax Administrator to comply with any provisions of this Disclosure Statement, related regulations or the Local Taxpayers Bill of Rights will not excuse the taxpayer from paying the taxes owed.

Audit or Examinations

If we contact you about your tax return or payment of any eligible taxes, we will send you a letter with either a request for more information or a reason why we believe a change to your return or taxes may be needed. If we request information, you will have 30 calendar days from the date of the mailing to respond. Reasonable extensions of such time will be granted upon application for good cause. We will notify you of the procedures to obtain an extension with our initial request for tax information. Our initial inquiry 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 our notice. If you give us the requested information or provide an explanation, we may or may not agree with you. If we do not agree with you, we will explain in writing our reasons for asserting that you owe us tax (which we call "an underpayment"). Our explanation will include: (1) the tax period or periods for which the underpayment is asserted; (2) the amount of the underpayment detailed by tax period; (3) the legal basis upon which we have relied to determine that an underpayment exists; and (4) an itemization of the revisions made by us to your return or report that results in our decision that an underpayment exists. If you agree with our changes, you should pay the additional tax.

Requests for Prior Year Returns

An initial request by the Tax Administrator into prior year returns may cover tax returns required to be filed as far back as three years prior to the mailing date of the notice. If the Tax Administrator determines that the taxpayer 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, the Tax Administrator may request additional information. The Tax Administrator may also require a taxpayer to provide copies of federal and Pennsylvania tax returns when the Tax

Administrator can show that the taxpayer's federal tax return(s) is(are) reasonably necessary for the enforcement or collection of tax, and the information is not available from other sources or the Pennsylvania Department of Revenue.

Appeals of Decisions

If we notify you that you owe more tax (what we call an "assessment") and you do not agree with our decision, you may appeal or seek review by filing a **Petition** for reassessment within 90 days of the date of the mailing of the assessment notice. The Petition must either be in our hands or postmarked by the U.S. Postal Service within this 90-day period. Receipts from other carriers (such as Federal Express) are not accepted as proof of delivery.

Your Petition must explain the legal basis for your position and include all supporting documents. For your convenience, a form for submission of a Petition is available at **[Insert address]**. **Your Petition must be mailed or delivered to the attention of [Insert appropriate name of contact person] at the following address: [Insert address for filing Petition]. [Note: The following sentence may be eliminated if appeals are decided by the governing body acting in executive session: After your Petition is received, we will notify you of your hearing date, if you requested a hearing.]** A decision by the **[Hearing Officer] [Appeals Board] or [Governing Body in Executive Session]**, which has been appointed by the **[Insert name of local political subdivision]** will be made within 60 days of the date your complete and accurate **Petition** is received. If you do not agree with the decision of the **[Hearing Officer] [Appeals Board] or [Governing Body in Executive Session]**, you may appeal to the appropriate Court of Common Pleas of _____ County **[Insert name of County]**. You must file your appeal within 30 days after notice of the decision of the **[Hearing Officer] [Appeals Board] or [Governing Body in Executive Session]**.

Refunds

You may file a claim for refund ("Refund Claim") if you think you paid too much tax (what we call an "overpayment"). You must file the Refund Claim within three years of the due date for filing the return as extended or one year after actual payment of the tax, whichever is later. If no report or local tax return is required for the tax, the Refund Claim must be made within 3 years after the due date for payment of the tax or within one year after actual payment of the tax, whichever is later. If your Refund Claim relates to amounts paid as a result of a notice asserting an underpayment of tax, your request for Refund Claim must be filed within one year of the date of payment. Refund Claims must be made on forms prescribed by us and must include supporting documentation. You can obtain forms for Refund Claims by contacting us at **[Insert appropriate address for requesting forms]**. Your Refund Claim must be filed with us at **[Insert appropriate address for filing Refund Claims]**. If you file a tax return showing an overpayment of tax, we will treat that as a request for a cash refund unless you indicate otherwise. If your Refund Claim is denied, you may file a Petition contesting the denial of the refund. Any Petition must be filed within the same time limits that apply for a Refund Claim. Alternatively, you may file a Petition for a refund without first filing a Refund Claim. A hearing date will be set after your Petition is received and a decision by the **[Hearing Officer] [Appeals Board] or [Governing Body in Executive Session]** will be made within 60 days of the date your complete and accurate Petition is received. The Appeals Petition form must be used to request a review of a Refund Claim denial. **Your Petition must be mailed or delivered to the attention of [Insert appropriate name of contact person] at the following address: [Insert address for filing Petition].**

Enforcement Procedures

Once it has been determined that you owe a tax, we will take all action we are legally permitted to take to enforce our claim. Such action may include obtaining additional information from you, auditing your records, entering into a settlement with you of the disputed amount of the tax, or obtaining liens on your property, wage attachments, levies, and seizures and sales of your property in appropriate circumstances. We may enter into a written agreement with you for payment of the tax in installments if we believe that such an agreement will facilitate collection. We may also impose interest and applicable penalties on the tax you owe, and may seek criminal prosecution of you in appropriate circumstances.

Tax Information Confidentiality

Information gained by the Tax Administrator or **[Hearing Officer] [Appeals Board] or [Governing Body]** as a result of any audit, return, report, investigation, hearing, appeal or verification shall be confidential. However, confidentiality will not preclude disclosure for official purposes, whether in connection with legal proceedings or otherwise, and it will not preclude disclosure to the extent required by applicable law.

Taxpayer Complaints

If you have a complaint about any action relating to the political subdivision's taxes, **[Insert name of appropriate person]** may be contacted in writing at **[insert address]**. This individual will attempt to facilitate resolution of your complaint by working with the appropriate personnel of the Tax Administrator and/or **[Hearing Officer] [Appeals Board] or [Governing Body]**.

For more information, please contact [Insert name, address and telephone number of Tax Administrator's contact person].

Please Note: The Governor's Center for Local Government Services recommends that this document be reviewed by the Local Solicitor before use.

[Insert name of Political Subdivision]
Request for Extension of Time to Provide Information

This Notice explains certain rights you have with respect to the request for information. Please read this Notice carefully, as your rights may expire if you do not follow the instructions within prescribed time periods.

Under Pennsylvania law, we are required to allow you 30 calendar days to respond to our request for information. This 30-day period is measured from our date of mailing the request for information. You must respond by either providing our Tax Administrator with the requested information, or requesting an extension of time in which to provide the information that we have requested. If you need an extension of time, please send a written request specifying the reasons for the extension and the facts supporting those reasons to the attention of the following person at the following address: **[Insert name and address of Tax Administrator]**.

A reasonable extension of time will be granted for good cause. Absent extraordinary circumstances, we will grant no longer than a thirty (30) day extension of time. The Tax Administrator will notify you in writing of whether an extension of time has been granted. If the request is granted, the Tax Administrator also will inform you of the amount of the time extension. If your request for an extension of time is denied, the Tax Administrator will inform you of the basis for the denial and that you must provide the requested information immediately.

[NOTE TO TAX ADMINISTRATOR: This Notice must be given to each taxpayer contacted with a request for tax information in connection with the assessment, audit, determination, review or collection of an eligible tax covered by the Local Taxpayers Bill of Rights. This Notice may be sent as a separate document, as provided above, or the language provided above may be incorporated into a request for tax information.]

Please Note: The Governor's Center for Local Government Services recommends that this document be reviewed by the Local Solicitor before use.

The following document is a Form of Rules and Regulations that may be adopted by a political subdivision to implement, in part, the requirements of the Local Taxpayers Bill of Rights found within Act 50 of 1998 at 53 Pa.C.S.A. §8421-8438.

Please Note: The Governor's Center for Local Government Services recommends that this document be reviewed by the Local Solicitor before use.

[Insert name of Political Subdivision]
Rules and Regulations for Compliance
with the Local Taxpayers Bill of Rights

Introduction

The Local Taxpayers Bill of Rights, enacted as part of Act 50 of 1998 (hereinafter the "LTBR"), requires that every political subdivision levying an Eligible Tax adopt regulations governing the administration and collection of the tax, and setting forth a process for handling appeals from decisions on assessments and refunds. This document provides the regulations required by the LTBR. The Disclosure Statement also required by the LTBR is provided in a separate document, which is available upon request of the Tax Administrator.

Definitions

Appeals Board *(Use only if one of the following appeals options is used for the administrative appeals process)* – **[The board of local tax appeals] [The board of the governing body in executive session] or [The board of the joint local tax appeals board].**

Assessment. The determination by the Tax Administrator of the amount of underpayment by a taxpayer.

Eligible Tax. Any of the following taxes specified within the term "eligible tax" under the LTBR, including interest and penalties provided by law, when levied by the governing body of the Local Government, but specifically not including any real estate tax:

- (a) Any tax authorized or permitted under the Act of December 31, 1965 (P.L. 1257, No. 511), known as the Local Tax Enabling Act or Act 511.
- (b) Any per capita tax.
- (c) Any occupation, occupation assessment or occupation privilege tax.
- (d) Any tax levied on income.
- (e) Any tax measured by gross receipts.
- (f) Any tax on a privilege.
- (g) Any tax on amusements or admissions.
- (h) Any tax on earned income and net profits.

Hearing Officer. *(Use if a hearing officer is appointed for the administrative appeals process instead of an Appeals Board).* The Hearing Officer appointed by Local Government to hear administrative appeals regarding an Eligible Tax.

Local Government. **[Insert the name of the political subdivision levying an Eligible Tax].**

Local Taxpayers Bill of Rights. Subchapter C of Act 50 of 1998 of the Pennsylvania General Assembly, 53 Pa.C.S.A. §8421-8428.

Overpayment. Any payment of tax which is determined in the manner provided by law not to be legally due.

Petition. The Petition for Appeal and Refund described in Section 103 below.

Tax Administrator. The employee, agent, appointed tax collector, elected tax collector, tax collection agency or other person to whom the governing body of the Local Government has assigned or delegated responsibility for the audits, assessment, determination or administration of an Eligible Tax. Under the LTBR, this Tax Administrator is also referred to and defined as the local taxing authority. In the case of the Local Government, the Tax Administrator is **[Insert name, title or company of Tax Administrator]**.

Taxpayer. An individual, partnership, association, corporation, limited liability company, estate, trust, trustee, fiduciary or any other entity subject to or claiming exemption from any Eligible Tax or under a duty to perform an act for itself or for another under or pursuant to the authority of an Eligible Tax levied by the Local Government.

Underpayment. The amount or portion of any Eligible Tax determined to be legally due in the manner provided by law for which payment or remittance has not been made.

Voluntary Payment. A payment of an Eligible Tax made pursuant to the free will of the taxpayer. The term does not include a payment made as a result of distraint or levy or pursuant to a legal proceeding in which the Tax Administrator is seeking to collect its delinquent Eligible Taxes or file a claim therefor.

101. Requirements for Requests for Taxpayer Information

(a) Minimum time periods for taxpayer response

- (1) The taxpayer shall have at least thirty (30) calendar days from the mailing date to respond to requests for information by the Tax Administrator. The Tax Administrator shall grant a reasonable extension upon written application explaining the reason(s) necessitating the extension, which must amount to good cause. If the Tax Administrator denies a request for extension, the Tax Administrator must inform the taxpayer in writing of the basis for the denial and that the taxpayer must immediately provide the requested information. If the Tax Administrator grants an extension request, he must notify the taxpayer in writing of the amount of extension granted. Generally, an extension will not exceed thirty (30) calendar days in length, and may be less, depending on the circumstances.
- (2) The Tax Administrator shall notify the taxpayer of the procedures to obtain an extension in its initial request for information. Please refer to the notice explaining the Request for Extension of Time to Provide Information attached as Schedule 1. **[Note that the form of Request for Extension of Time to Provide Information" included in the manual at Exhibit C may be attached as Schedule 1 to the Rules and Regulations.]**
- (3) The Tax Administrator shall take no lawful action against a taxpayer for the tax year in question until the expiration of the applicable response period for submission of the information requested, including extensions. For example, the Tax Administrator may not engage in any collection efforts until after expiration of the response period. After expiration of the response period, the Tax Administrator may engage in collection efforts permitted by the LTBR and discussed in Section 113 below.

(b) Requests for prior year tax returns

- (1) Except as provided in Subsection (b)(2), an initial inquiry by the Tax Administrator 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.
- (2) The Tax Administrator may make an additional subsequent request for a tax return or supporting information if, after the initial request, the Tax Administrator determines that the taxpayer 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. Generally, however, the Tax Administrator should not make routine requests for additional prior year returns.

Notwithstanding the foregoing, the limitations in Subsection (b)(2) above on subsequent requests for prior year returns shall not apply if the Tax Administrator has sufficient information to indicate that the taxpayer failed to file a required return or to pay an Eligible Tax which was due more than three years prior to the date of the notice. Thus, in situations involving failure to file a required return or to pay a required Eligible Tax, the Tax Administrator shall, in his discretion, have the ability to request prior year returns due more than three (3) years prior and supporting information.

- (c) Use of Federal or State tax information. The Tax Administrator may require a taxpayer to provide copies of the taxpayer's Federal individual income tax return if the Tax Administrator can demonstrate that the Federal tax information is reasonably necessary for the enforcement or collection of tax and the information is not available from other available sources or the Pennsylvania Department of Revenue. The Tax Administrator may also require a taxpayer to provide copies of the taxpayer's state individual income tax return.

102. Notice of Basis of Underpayment

The Tax Administrator must notify the taxpayer in writing of the basis for any underpayment that the Tax Administrator has determined to exist with respect to any Eligible Tax. The purpose of this notification is for the taxpayer to understand the exact reason why the Tax Administrator believes an underpayment exists. This notification from the Tax Administrator shall be written in a manner calculated to be understood by an average person. The notification must include:

- (a) The tax period or periods (usually measured in calendar years) for which the underpayment is asserted.
- (b) The amount of the alleged underpayment of the Eligible Tax detailed by tax period.
- (c) The legal basis (including any statutory or case law citations) upon which the Tax Administrator has relied to determine that an underpayment of an Eligible Tax exists.
- (d) An itemization of the changes made by the Tax Administrator to a return or report filed by the taxpayer that results in the determination that an underpayment exists. A copy of any revised return or report in the Tax Administrator's file must be provided to the taxpayer.

103. Petitions for Appeals of Assessments or Refund of Taxes Paid

- (a) Filing of Petitions. A taxpayer has the legal right to challenge an assessment or denial of a refund claim under the LTBR. However, a taxpayer has a right to one appeal only. If a taxpayer loses an assessment appeal, the taxpayer is not entitled to a second refund appeal after paying the tax. In addition, no administrative appeals are provided for other decisions, including but not limited to the denial of an extension of time to provide information or the modification or termination of an installment agreement.

The LTBR requires political subdivisions to establish appeals procedures. In order to begin the appeals process, the taxpayer must file a complete and timely petition (the "Petition"). A Petition is timely filed if the letter transmitting the Petition is postmarked by the United States Postal Service or actually received on or before the final day on which the Petition is due. Receipts from carriers other than the United States Postal Service are not accepted as proof of timely filing. Deadlines for filing a petition are as follows:

- (1) Petitions challenging the denial of a refund shall be filed within three years after the due date for filing the report or return as extended or one year after actual payment of the tax, whichever is later. If no report or return is required, the Petition shall be filed within three years after the due date for payment of the Eligible Tax or within one year after actual payment, whichever is later.
- (2) Petitions for reassessment of tax shall be filed within ninety (90) days of the date of the assessment notice which has been sent to the taxpayer by the Tax Administrator.
- (b) The Tax Administrator shall make available a form of Petition for Appeal and Refund attached as Schedule 2. **[Note that the form of "Petition for Appeal and Refund" included in the manual at Exhibit G may be attached as Schedule 2 to the Rules and Regulations.]**
- (c) Contents. Any Petition filed under Section 103(a)(1) shall (1) state the legal basis for claiming the refund or disagreeing with the Tax Administrator's assessment; (2) state the tax period or periods (i.e., years) to which it pertains; (3) state the amount of the claim and the type of Eligible Tax detailed by tax period; (4) include all supporting documentation and calculations; (5) provide the name, address and telephone number of the taxpayer's representative, if any; (6) include a statement certifying that the facts in the Petition are true and correct, under penalty of perjury, and that the Petition is not filed for purposes of delay; and (7) include such other information (essentially identification) as is reasonably requested by the Tax Administrator on the Petition for Appeal and Refund provided to taxpayer.
- (d) **[Use only if the Appeals Board is not the governing body acting in executive session.]** Hearing/Appeal on Record. The taxpayer shall have the right to request a hearing in person or based on the Petition and record (including information on file and information submitted by taxpayer). A hearing based only on the Petition and record will not include any in person hearing or oral arguments. The **[Hearing Board] [Appeals Board]** shall have the right to deny an oral hearing and/or oral argument where the taxpayer has submitted an incomplete Petition, or where the **[Hearing Officer] [Appeals Board]** has determined that the appeal is frivolous, undertaken only for purpose of delay, or otherwise without merit. If an oral hearing is denied, the **[Hearing Officer]** or **[Appeals Board]** shall notify the taxpayer in writing of the denial and the basis for the denial.

Alternate (d) **[Use only if the Appeals Board is the governing body acting in executive session.]** The taxpayer shall have his or her Petition decided by the governing body acting in executive session based solely on the Petition and record (including information on file and information submitted by the taxpayer). No hearing, oral testimony or oral argument is required, but can be requested by the taxpayer. The governing body may choose to grant a hearing in its sole discretion.

104. Appeals Board/Hearing Officer

[Add only if an Appeals Board is used.] An Appeals Board appointed by a governing body shall consist of at least three, but no more than seven, members. The Appeals Board shall be appointed by the governing body of this Municipality levying the Eligible Tax. Alternatively, the Appeals Board shall consist of the governing body acting in executive session, without any maximum or minimum limitation on the number of persons acting as the governing body, provided that a quorum exists. In this situation, the Local Government has chosen **[Insert name of entity acting as Appeals Board]** as the Appeals Board required by the LTBR.

- (a) Any taxpayer filing a Petition under Section 103 **[Except when the governing body is the Appeals Board]** shall be entitled to a hearing and decision by the **[Hearing Officer] [Appeals Board]**, subject to a request for hearing and the failure to deny the request for hearing. Decisions on

Petitions shall be issued within sixty (60) days of the date a complete and accurate Petition is received. If the **[Hearing Officer] [Appeals Board]** does not act within sixty (60) days the Petition shall be deemed approved.

[Alternate (a) if governing body acting in executive session is used: The decision by the governing body acting in executive session shall be based solely on the Petition and record. Decisions on Petitions shall be issued within sixty (60) days of the date a complete and accurate Petition is received. Failure to act within sixty (60) days shall result in the Petition being deemed approved.]

- (b) Any person aggrieved by a decision under this Section 104 who has a direct interest in the decision shall have the right to appeal to the Court of Common Pleas of the County of **[Insert name of applicable county]** vested with the jurisdiction of local tax appeals by or pursuant to 42 Pa.C.S. §5571(b).
- (c) Decisions by the **[Hearing Officer] [Appeals Board]** shall be made according to principles of law and equity.

105. Conduct of Appeals/Hearings

- (a) A taxpayer may or may not choose to be represented by a taxpayer representative. The taxpayer representative may be a lawyer, certified public accountant, accountant or other tax advisor possessing appropriate tax training to represent taxpayers in tax appeals. The taxpayer must submit a written authorization to use a taxpayer representative. However, a simple letter signed by a taxpayer authorizing representation will be accepted as authorization. Such authorization shall include the representative's name, address and telephone number.
- (b) Copies of notices or communications may be sent by the Tax Administrator or other representative of the political subdivision to the taxpayer's representative. However, the original notice or communications will always be sent directly to the taxpayer. Action taken by the taxpayer's authorized representative (for example, requesting an extension of time or submitting factual information) shall have the same force or effect as if taken directly by the taxpayer.
- (c) **[Use only if governing body acting in executive session is not used.]** Reasonable notice of the hearing date will be provided to the taxpayer by the **[Choose appropriate entity]: [Tax Administrator] [Hearing Officer] [Designee of Appeals Board]**. The notice shall provide the date, time and place of a hearing.
- (d) **[Use only if governing body acting in executive session is not used]**. The **[Hearing Officer] [Appeals Board]** may grant a taxpayer's written request for a continuance of a hearing. A request for continuance shall be granted only if supported by written reasons, and for good cause. A request for continuance must be received at least five (5) days before the scheduled hearing date.
- (e) **[Use only if governing body acting in executive session is not used]**. The **[Hearing Officer] [Insert the presiding officer designated by the Appeals Board]** shall preside and keep order over any scheduled hearing. Hearings need not adhere to any technical rules of evidence, but oral testimony shall be taken under oath or affirmation. At the discretion of the **[Hearing Officer] [Appeals Board]**, depositions or affidavits may be used in lieu of oral testimony.
- (f) **[Use only if governing body acting in executive session is not used]**. The **[Hearing Officer] [Insert the presiding officer designated by the Appeals Board]** shall have the authority to take the following actions:
 - (1) delegate the hearing schedule to an employee, agent or other designee;

- (2) regulate the conduct of hearings, including but not limited to scheduling, timing, recesses, reconvening, adjournment and any other acts necessary for the efficient conduct of a hearing;
 - (3) administer oaths and affirmations;
 - (4) receive evidence;
 - (5) permit reasonable examination and cross-examination of witnesses;
 - (6) require the production of written evidence such as books, records, documents and any other pertinent information.
- (g) The **[Hearing Officer's] [Appeals Board's]** final decision shall be in writing and signed by the **[Hearing Officer] [Representative of the Appeals Board]**. The final decision shall be mailed to the taxpayer, with a copy also mailed to the taxpayer's authorized representative (if any).

106. Refunds

- (a) A taxpayer who has paid an Eligible Tax may file a written request for refund or credit. A request for refund shall be made within three years of the due date, as extended, for filing the report or tax return, or one year after 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 payment of the tax or within one year after actual payment of the tax, whichever is later.
- (b) A tax return filed by the taxpayer showing an overpayment shall be deemed to be a written request for a cash refund unless otherwise indicated on the tax return.
- (c) A request for refund under this Section 106 shall not be considered a Petition under Section 103 and shall not preclude a taxpayer from submitting a Petition under Section 103.
- (d) 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 within one year of the date of payment.

107. Disclosure Statement and Taxpayer Notice

Any taxpayer contacted by the Tax Administrator regarding the assessment, audit, determination, review or collection of an Eligible Tax will receive a Taxpayer Notice. The Notice shall be incorporated into any other correspondence sent to a taxpayer by the Tax Administrator regarding the assessment, audit, determination, review or collection of tax. The Notice shall be substantially in the following form:

You are entitled to receive a Disclosure Statement that sets forth a written explanation of your rights with regard to the assessment, audit, determination, review, appeal, enforcement, refund and collection of any local taxes by calling the **[Insert name of Tax Administrator's contact person]** at **[Insert telephone number]** during the hours of **[Insert hours of operation]** on any weekday other than a holiday.

You may request a copy in person, by telephone or by mailing a request to the following address: **[Insert Tax Administrator's address]**.

The Disclosure Statement will be made available to taxpayers upon request at no charge to the taxpayer, including mailing costs. In general, the Tax Administrator will make reasonable efforts to supply all taxpayers with a copy of the Disclosure Statement.

108. Interest on Overpayment

- (a) General rule. All overpayments of an Eligible Tax made to the Local Government shall bear simple interest from the date of overpayment of such Eligible Tax until the date of resolution.
- (b) Interest rate. Interest on overpayments shall be paid at the same rate as the Commonwealth of Pennsylvania is required to pay pursuant to Section 806.1 of the Act of April 9, 1929 (P.L. 343, No.176), known as the Fiscal Code (72 P.S. § 1 et seq.) As of December 1998, this interest rate is currently 9% annually (.00247% daily).
- (c) Exceptions to payments of interest.
 - (1) No interest shall be paid if an overpayment is refunded or applied against any other Eligible Tax, interest or penalty due to the Local Government within seventy-five (75) days after the last date prescribed for filing the report or tax return of the tax liability or within seventy-five (75) days after the date the return or report of the liability due is filed, whichever is later.
 - (2) Interest is not required to be paid on taxpayer overpayments of interest or a penalty(ies).
- (d) Acceptance of refund check. The taxpayer's acceptance of a refund check from the Tax Administrator or political subdivision shall not prejudice any right of the taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check by the Local Government shall be deemed to be acceptance of the check by the taxpayer for purposes of this Subsection 108(d).
- (e) Definitions. As used in this Section 108, the following words and phrases shall have the meanings given to them in this Subsection (e):

"Date of overpayment" shall mean the later of the date paid or the date the tax is deemed to have been 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 a lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid sixty (60) days following the date of 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 sixty (60) days following the date of filing of the amended income tax return.

"Date of resolution" shall mean the date the overpayment is refunded or credited as follows:

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

- (ii) the due date for payment of the Eligible 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 ninety (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 thirty (30) days, whether or not the refund check is accepted by the taxpayer after tender.

109. Abatement of Certain Interest and Penalty

- (a) Errors and delays. The purpose of this provision is to provide, in the discretion of the Tax Administrator, a mechanism to abate (i.e., reduce) interest and/or penalties where an underpayment is the result of an error or delay in performance by a representative of the Tax Administrator. Accordingly, in the case of any underpayment, the Tax Administrator, in its discretion, may offer to abate all or any part of the interest relating to an Eligible Tax for any period for any one or all of the following reasons:
 - (1) Any underpayment of an Eligible Tax finally determined to be due, which is attributable in whole or in part to any error or delay by the Tax Administrator in the performance of a ministerial act. For 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 Administrator has contacted the taxpayer in writing with respect to the underpayment of tax finally determined to be due or payable.
 - (2) Any payment of an Eligible Tax to the extent that any error or delay in the payment is attributable to an officer, employee or agent of the Tax Administrator being erroneous or dilatory in performance of a ministerial act.

The Tax Administrator shall determine what constitutes timely performance of ministerial acts performed under this Subsection (a).

- (b) Abatement of any penalty or excess interest due to erroneous written advice by the Tax Administrator. The Tax Administrator shall abate any portion of any penalty or excess interest attributable to erroneous advice furnished to the taxpayer in writing by an officer, employee or agent of the Tax Administrator acting in the officer's, employee's or agent's official capacity if:
 - (1) The written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer; and
 - (2) The portion of the penalty or addition to tax or excess interest did not result from a failure by the taxpayer to provide adequate or accurate information to the Tax Administrator.

Notwithstanding the foregoing, it shall be in the sole discretion of the Tax Administrator whether or not to provide written tax advice to a taxpayer. Taxpayers shall not have any right to compel the Tax Administrator to provide written tax advice.

110. Application of Payments.

Unless otherwise specified by the taxpayer, all voluntary payments of an Eligible Tax shall be prioritized by the Tax Administrator in the following order:

- (a) Tax.
- (b) Interest.
- (c) Penalty.
- (d) Any other fees or charges.

111. Installment Agreements

The Tax Administrator has the discretion to enter into written agreements with any taxpayer under which the taxpayer is allowed to satisfy liability for tax in installment payments if the Tax Administrator determines that the installment agreement will facilitate collection.

- (a) Extent to which installment agreements remain in effect.
 - (1) Except as otherwise provided in this Subsection (a), any installment agreement entered into by the Tax Administrator under this Section 111 shall remain in effect for the term of the agreement.
 - (2) The Tax Administrator may terminate any prior installment agreement entered into under this Section 111 if:
 - (i) information which the taxpayer provided to the Tax Administrator prior to the date of the installment agreement was inaccurate, false, erroneous or incomplete in any manner, determined in the reasonable discretion of the Tax Administrator; or
 - (ii) The Tax Administrator reasonably believes and has determined that collection of the Eligible Tax under the installment agreement is in jeopardy.
 - (3) If the Tax Administrator finds that the financial condition of the taxpayer has significantly changed, the Tax Administrator may unilaterally alter, modify or terminate the installment agreement, but only if the following conditions are satisfied:
 - (i) the Tax Administrator provides a notice of its findings to the taxpayer no later than thirty (30) days prior to the date of change of the installment agreement; and
 - (ii) the notice given by the Tax Administrator to the taxpayer provides the reasons why the Tax Administrator believes that a significant change, justifying a change to the installment agreement, has occurred.
 - (4) The Tax Administrator may unilaterally and without notification alter, modify or terminate an installment agreement entered into by the Tax Administrator under this Section 111 if the taxpayer fails to do any of the following:
 - (i) pay any installment at the time it is due under the installment agreement;
 - (ii) pay any other liability relating to an Eligible Tax at the time the liability is due;
 - (iii) provide a financial condition update as requested by the Tax Administrator.
 - (5) No administrative appeal is permitted in the event of an alteration, modification or termination of an installment agreement. However, an appeal may be made to the Court of Common Pleas of this county.
- (b) Prepayment permitted. Nothing in this Section 111 shall prevent a taxpayer from prepaying in whole or in part any Eligible Tax under any installment agreement with the Tax Administrator.

112. Confidentiality of Tax Information.

Any information obtained by the Tax Administrator or **[Hearing Officer]** or **[Appeals Board]**, or any of their respective officers, agents, legal counsel, financial accountants, or employees as a result of any audit, assessment, return, report, investigation, hearing, appeal or verification of a taxpayer shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for such persons to:

- (a) Divulge or make known in any manner any confidential information obtained through any audit, return, assessment, investigation, report, investigation, appeal, hearing or verification of a taxpayer to any person other than the taxpayer or the taxpayer's authorized representative.
- (b) Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person other than the taxpayer or the taxpayer's authorized representative.
- (c) Print, publish or make known in any manner any confidential tax information of a taxpayer.

An offense under this Section 112 is a misdemeanor of the third degree and, upon conviction thereof, a fine of not more than \$2,500 and costs, or a term of imprisonment for not more than one year, or both, may be imposed on the offender. If the offender is an officer or employee of the Tax Administrator or the **[Hearing Officer]** or **[Appeals Board]**, the officer or employee shall be dismissed from office or discharged from employment.

113. Collections.

If after the decision of an appeal, or if no appeal is requested by a taxpayer, the Tax Administrator may engage in efforts to collect any Eligible Tax determined to be legally due. Such efforts may include, but shall not be limited to, obtaining additional information, auditing taxpayer records, compromising the amount of tax, interest, or penalty owed, obtaining liens on the taxpayer's property, or obtaining wage attachments, levies and seizures of the taxpayer's property. As provided in Section 111 of these Regulations, the Tax Administrator may enter into a written installment agreement with the taxpayer if the Tax Administrator determines that an installment agreement will facilitate collection. The Tax Administrator also reserves the right to seek criminal prosecution of a taxpayer in appropriate circumstances.

7. This Ordinance shall become effective in accordance with the provisions of law and shall be applicable to Eligible Taxes as of January 1, 1999.
8. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this Governing Body that the remainder of the Ordinance shall remain in full force and effect.
9. All ordinances and resolutions or parts thereof, insofar as the same are inconsistent herewith, are repealed hereby.

Please Note: The Governor's Center for Local Government Services recommends that this document be reviewed by the Local Solicitor before use.

**[Insert name of Political Subdivision]
Initial Refund Claim Form**

Instructions

This form is to be used by taxpayers seeking an initial claim for refund from the **[Insert name of political subdivision]**. Taxpayers whose initial refund claim has been denied and are appealing such denial must file a Petition for refund with the **[Insert name of Hearing Officer, Appeals Board or Governing Body designated to hear appeals]**. Please complete this form using blue or black ink, or type this form. Attach proof that the tax for which you are seeking a refund was paid. Mail this form to **[Insert name and address of appropriate contact of Tax Administrator]** (hereinafter the "Tax Administrator"). Refund Claims must be received by the Tax Administrator within the later of: (a) three years of the due date for filing the tax return; or (b) one year after actual payment of the tax. Refund Claims filed via U.S. Postal Service are considered filed as of the postmark date. Refund Claims filed via any other method are considered filed on the date received. Answer all questions below as fully as possible. If an item is not applicable, enter "N/A."

Section A: Taxpayer Information

Last Name: _____ First Name: _____ Middle Initial: _____

Street Address: _____

City: _____ State: _____ County: _____ Zip: _____

Phone: _____ Fax: _____

Previous Street Address (*if applicable*): _____

City: _____ State: _____ County: _____ Zip: _____

Social Security Number: _____ Account Number: _____

Taxpayer Identification Number: _____

Section B: Tax Information

Type of Tax: _____

Amount of Refund Claim \$ _____

Tax Year: _____ Quarter: _____

School District: _____

Borough: _____ Township: _____

City: _____ Town: _____

County: _____

Section C: Representative Information

Complete Information for Representative *(if applicable)*

Send all copies of correspondence to: _____ Representative

Last Name: _____ First Name: _____ Middle Initial: _____

Is Representative an: Attorney Certified Public Accountant Other Accountant
 Other Tax Advisor

Business Name: _____

Street Address: _____

City: _____ State: _____ County: _____ Zip: _____

Phone: _____ Fax: _____

Section D: Explanation of Refund Claim and Arguments

Explain in detail why the Refund Claim requested above should be granted. Attach additional pages if necessary. Enclose copies of any documents you feel will support your arguments. Refund Claims must be accompanied by proof of payment of the tax.

Section E: Signature

All Refund Claims must be signed by the taxpayer and be accompanied by the following penalty of perjury statement.

Under penalties prescribed by law, I hereby certify that this Refund Claim has been examined by me and that to the best of my knowledge, information and belief, the facts contained in the Refund Claim are true and correct.

Signature: _____

Print Name: _____

Title: _____

Date: _____

Initial Refund Claim Procedures - for Distribution with Initial Refund Claim Form

I. Form and Content of the Refund Claim.

A. The Initial Refund Claim must include the following information:

1. Taxpayer's name, address, phone number and contact person (if any).
2. Taxpayer's social security number, account number or taxpayer identification number.
3. Type of tax.
4. Tax year and/or quarter.
5. School district and/or borough, township or city.
6. Name, address and phone number of authorized representative (if any).
7. Taxpayer's explanation and argument(s) in support of the Refund Claim.
8. Signature of taxpayer.

II. Deadlines for Filing.

A. Refund Claims.

If taxpayer determines that he or she has paid a tax to which he or she is not subject, or has overpaid a tax, a Refund Claim for such tax must be filed with the Tax Administrator within the following time limits:

1. Refund Claims shall be filed within three (3) years after the due date for filing the report or return, as extended or one (1) year after actual payment of the tax, whichever is later; and
2. If no report or return is required, the Refund Claim shall be filed within three (3) years after the due date for payment of the tax to be refunded or within one (1) year after actual payment, whichever is later.

B. Timely Filing.

A Refund Claim is timely filed if the letter transmitting the Refund Claim is postmarked by the United States Postal Service on or before the final day on which the Refund Claim is required to be filed.

C. Mailing Address.

Refund Claims should be mailed to the following address:

[Insert name of Tax Administrator]

Attention: **[Insert name of contact person]**

[Insert Address]

Please Note: The Governor's Center for Local Government Services recommends that this document be reviewed by the Local Solicitor before use.

**[Insert name of Political Subdivision]
Petition for Appeal and Refund**

Instructions

This form is to be used by taxpayers appealing an assessment of tax by the Tax Administrator or an appeal of a denial of a claim for refund by the Tax Administrator. Please complete Petition using blue or black ink, or type Petition. Attach a copy of the Assessment Notice being appealed, or if seeking a refund, proof that such tax was paid. Mail this Petition to the **[Insert name and address of appropriate contact person of Hearing Officer, Appeals Board or Governing Body]**. Petitions appealing an Assessment Notice must be received by the **[Hearing Officer] [Appeals Board] or [Governing Body]** within 90 days of the date of the Assessment Notice. Petitions for refunds must be received by the **[Hearing Officer] [Appeal Board] or [Governing Body]** within the later of: (a) three years of the due date for filing the return or (b) one year after actual payment of the tax. Petitions filed via U.S. Postal Service are considered filed as of the postmark date. Petitions filed via any other method are considered filed on the date received. Answer all questions below as completely as possible. If an item is not applicable, enter "N/A."

Section A: Taxpayer Information

Last Name: _____ First Name: _____ Middle Initial: _____

Street Address: _____

City: _____ State: _____ County: _____ Zip: _____

Phone: _____ Fax: _____

Previous Street Address *(if applicable)*: _____

City: _____ State: _____ County: _____ Zip: _____

Social Security Number: _____

Taxpayer Identification Number: _____

Section B: Tax Information

Type of Tax: _____

Is this Petition for a Refund? Yes No If so, what amount? \$ _____

Tax Year: _____ Quarter: _____

School District: _____

Borough: _____ Township: _____

City: _____ Town: _____

County: _____

Section C: Tax Representative Information

Complete Information for Representative *(if applicable)*
Send all copies of correspondence to: _____ Representative

Last Name: _____ First Name: _____ Middle Initial: _____

Is Representative an: Attorney Certified Public Accountant Other Accountant
 Other Tax Advisor

Business Name: _____

Street Address: _____

City: _____ State: _____ County: _____ Zip: _____

Phone: _____ Fax: _____

Section D: Hearing Request

Note: This Section D can be eliminated if the Appeals Board is the governing body acting in executive session.

- Hearing Requested *(Check if Taxpayer desires a hearing in person)*
- Hearing Requested Based on Petition and Record *(No hearing will be conducted in person)*

If choice is not indicated, hearing will be conducted based on Petition and Record and without a hearing in person

Section E: Relief Requested and Arguments

Explain the relief requested: _____

Explain in detail why the relief requested above should be granted. Attach additional pages if necessary. Enclose copies of any documents you feel will support your arguments. Petitions for refund must be accompanied by proof of payment of the tax.

Section F: Signature

All Petitions must be signed by Petitioner or an authorized representative. If signed by an authorized representative, written authorization for the representative to sign on Petitioner's behalf must accompany the Petition.

Under penalties prescribed by law, I hereby certify that this Petition has been examined by me and that to the best of my knowledge, information and belief, the facts contained in the Petition are true and correct.

Signature: _____
(Taxpayer or Authorized Representative)

Print Name: _____
(Taxpayer or Authorized Representative)

Title: _____

Date: _____

Please Note: The Governor's Center for Local Government Services recommends that this document be reviewed by the Local Solicitor before use.

Administrative Appeal Procedures Applicable to Petitions for Appeal and Refund

I. General

If the taxpayer does not agree with the local Tax Administrator's (hereinafter "Administrator") assessment or determination of refund claim, the taxpayer may file an appeal by Petition to the **[Hearing Officer] [Board of Appeals] or [Governing Body]** requesting a review of the Administrator's assessment or determination of refund claim.

II. Obtaining A Hearing

A. To obtain a hearing, a taxpayer must complete a Petition form and timely file it with the **[Hearing Officer] [Board of Appeals] or [Governing Body]** and mail it to the Administrator's address indicated in Section V(D) below. **[Note: The Governing Body acting in executive session is not required to provide a hearing to the taxpayer but can decide an appeal based solely on the Petition and record.]**

III. Form and Content of the Petition

A. The Petition must include all of the following information:

1. Petitioner's name, address, phone number and contact person (if any).
2. Petitioner's social security number, account number or taxpayer identification number.
3. Type of tax.
4. Tax year and/or quarter.
5. School district and/or borough, township, city, town or county.
6. Name, address and phone number of authorized representative (if any).
7. **[Not required if the Appeals Board is the governing body acting in executive session.]** Whether Petitioner would like to schedule a hearing in person or on the record.
8. Relief the Petitioner is requesting.
9. Petitioner's argument(s) in support of the relief requested.
10. Signature of Petitioner.

IV. Forwarding Appeal

- A. Upon receipt of the taxpayer's Petition, the Administrator shall forward the Petition immediately to the **[Hearing Officer] [Board of Appeals] or [Governing Body]**.
- B. The **[Hearing Officer] [Board of Appeals] or [Governing Body]** shall issue a written decision on the taxpayer's Petition within 60 days of the date on which a complete and accurate Petition is received from the taxpayer.
- C. In evaluating and making a decision as to any Petition, the **[Hearing Officer] [Board of Appeals] or [Governing Body]** shall apply the principles of law and equity.

V. Deadlines for Filing

A. Refund Petitions

If a taxpayer determines that he or she has paid a tax to which he or she is not subject, a Petition for refund of the overpaid local tax must be filed with the Administrator.

1. Refund Petitions shall be filed within 3 years after the due date for filing the report or return, as extended or 1 year after actual payment of the tax, whichever is later; and
2. If no report or return is required, the refund Petition shall be filed within 3 years after the due date for payment of the tax to be refunded or within 1 year after actual payment, whichever is later.

B. Petitions for Reassessment

Any taxpayer who disagrees with an assessment or determination of a local tax may petition the **[Hearing Officer] [Board of Appeals] or [Governing Body]** for a re-evaluation of the taxpayer's assessment.

1. Petitions for reassessment of a tax shall be filed with the Administrator within 90 days of the date of the Assessment Notice.

C. Timely Filing

A Petition for refund or Petition for reassessment is timely filed if the letter transmitting the Petition is postmarked by the United States Postal Service on or before the final day on which the Petition must be filed.

D. Mailing Address

Petitions shall be mailed to the following address:

[Insert name of Administrator]

Attention: **[Hearing Officer] [Board of Appeals] or [Governing Body]**

[Insert Address]

Please Note: The Governor's Center for Local Government Services recommends that this document be reviewed by the Local Solicitor before use.

IV. Real Estate Tax Deferral Program Act

The Real Estate Tax Deferral Program Act, 53 Pa.C.S. §8571 *et seq.* (the "Deferment Act") was enacted as part of Act 50, and it gives Pennsylvania political subdivisions the power and authority to grant annual real estate tax deferrals to certain eligible individuals on their homesteads, in the manner provided under the Deferment Act. The term "homestead" is specifically defined in the Deferment Act to include only certain types of residential dwellings. Because the taxes are merely deferred (and not abated), the deferred taxes must ultimately be repaid to the political subdivision granting the deferral as specified in the Deferment Act (See the section below entitled Payment of Deferred Taxes). Each political subdivision has the option to offer deferrals under the Deferment Act. Before implementing a deferral program, the taxing body is advised to estimate the costs of recordkeeping and the probable level of participation in the program.

Amount of Tax Deferral

The annual real estate tax deferral granted under the Deferment Act is equal to the increase in real property taxes upon the homestead of an eligible claimant. However, no tax deferrals can be granted if the total amount of deferred taxes, plus the total amount of all other unsatisfied liens on the homestead of the claimant, plus the outstanding principal on any and all mortgages on the homestead, exceeds 85% of the market value of the homestead or if the outstanding principal on any and all mortgages on the homestead exceeds 70% of the market value of the homestead. The property's market value is equal to the assessed value divided by the common level ratio, as most recently determined by the State Tax Equalization Board for the county in which the property is located.

Eligible Individuals

Under the Deferment Act, a claimant is eligible for a tax deferral if the claimant and the claimant's spouse have a household income not exceeding the maximum household income eligibility limitations set forth in the Act of March 11, 1971 (P.L. 104, No.3), known as the Senior Citizens Rebate and Assistance Act (72 P.S. § 4751-1 *et seq.*). Currently that limit is \$15,000 annually.

Contents of Application

The Deferment Act requires that applications for a tax deferral distributed to persons by political subdivisions must contain the following information: (a) a statement that the tax deferral granted by the political subdivision is provided in exchange for a lien against the homestead of the applicant and (b) an explanation of the manner in which the deferred taxes shall become due, payable and delinquent and include, at a minimum, the consequences of noncompliance with the provisions of the Deferment Act.

Application Procedure

Any eligible person may make an annual application for a tax deferral to the political subdivision. In the initial year of application, the following information must be provided in the manner required by the political subdivision:

1. A statement of request for the tax deferral.
2. A certification that the applicant or the applicant and his or her spouse jointly are the owners in fee simple of the homestead upon which the real property taxes are imposed.
3. A certification that the applicant's homestead is adequately insured under a homeowner's policy to the extent of all outstanding liens.
4. Receipts showing timely payment of the immediately preceding year's nondeferred real property tax liability.
5. Proof of income eligibility.
6. Any other information required by the political subdivision, including but not limited to identification of the homestead property.

After the initial entry into the program, an eligible claimant remains eligible for tax deferral in subsequent years, as long as the claimant continues to meet the eligibility requirements. The political subdivision should obtain information from the claimant showing continued income eligibility and certifying that there have been no other changes in the information previously submitted.

Attachment and Satisfaction of Liens

The Deferment Act provides that all taxes deferred constitute a prior lien on the homestead of the claimant in favor of the political subdivision, with such liens attaching as of the date and in the same manner as other real estate tax liens. The Deferment Act also provides that the deferred taxes shall be collected as other real estate tax liens, but the deferred taxes shall be due, payable and delinquent only as provided in the Deferment Act.

Payment of Deferred Taxes

The Deferment Act provides that all or part of the deferred taxes may be paid to the political subdivision at any time, but in the event that the deferred taxes are not paid by the claimant or the claimant's spouse during his or her lifetime or during their continued ownership of the homestead, the deferred taxes must be paid before the earlier of the conveyance of the homestead to any third party or the passing of the legal or equitable title, either by will or by statute, to the heirs of the claimant or the claimant's spouse. There is no provision for the accrual of interest during the deferment period.

The Deferment Act does not require the surviving spouse of a claimant to pay the deferred taxes by reason of his or her acquisition of the homestead due to death of the claimant, as long as the surviving spouse maintains his or her domicile in the property. The surviving spouse may continue to participate in the tax deferral program in subsequent years provided he or she is eligible under the provisions of the Deferment Act.

V. Homestead Property Exclusion Program Act

The Homestead Property Exclusion Program Act, 53 Pa.C.S. §8581 *et seq.* (the "Homestead Act"), which was enacted as part of Act 50, generally permits the governing body of a political subdivision to exclude from real property taxation a fixed dollar amount of the assessed value of each homestead property and farmstead property in the political subdivision. The homestead property exclusion cannot exceed one-half of the median* assessed value of homestead property in the political subdivision, and the farmstead property exclusion cannot exceed the amount of the homestead property exclusion. The Homestead Act provides that if a political subdivision is located in more than one county, the exclusion provided for each county's portion of the political subdivision must be uniform after adjustment for the common level ratios in the respective counties. In political subdivisions where different millage rates are applied to land and the improvements upon land, the Homestead Act requires that the exclusion must first be applied to the value of the improvements, and the remainder of the exclusion, if any, must be applied to the value of the land. If a dwelling is constructed during the taxable year and used as homestead property, the Homestead Act requires that the exclusion must be prorated in a manner consistent with the assessment of real property taxes on that dwelling.

Reassessments

After a revision of assessments by means of revaluing all properties, the governing body of the political subdivision providing an exclusion under the Homestead Act must adjust the amount of the exclusion for homestead property as indicated below:

- A. If the assessment base is revised by applying a change in the established predetermined ratio, the exclusion for homestead property must be adjusted by the percentage change between the existing predetermined ratio and the newly established predetermined ratio; or
- B. If the assessor performs a revision of assessments by revaluing all properties and applying an established predetermined ratio, the exclusion for homestead property must be adjusted by dividing the exclusion for homestead property for the year preceding the revision of assessments by the common level ratio and multiplying the quotient of that calculation by the newly established predetermined ratio.

Limitations On Exclusion

The Homestead Act provides that in accordance with the limits established on the exclusion for homestead property in Article VIII of the Constitution of Pennsylvania, no governing body of a political subdivision is permitted to authorize an exclusion for homestead property in excess of the amount which is one-half of the median assessed value of homestead property in the political subdivision. The median assessed value of homestead property shall be determined by the information provided to the governing body as required under the section entitled ASSESSOR REPORTING REQUIREMENTS. For the purposes of calculating the limit on the exclusion, a political subdivision that is located in more than one county must determine the median assessed value of homestead property for the entire political subdivision after dividing the assessed value of each homestead property by the common level ratio of the county in which the homestead property is located.

*The median refers to the number equal to the assessed value of a homestead which, when compared to the assessed value of all other homesteads within the political subdivision, results in half of the homesteads in the political subdivision having assessed values greater than such number and half of the homesteads in the political subdivision having assessed values less than such number. The median is not the average.

The Homestead Act prohibits the governing body of the political subdivision from increasing the millage rate of its tax on real property to pay for the exclusions authorized by the Homestead Act.

Application Procedure

Under the Homestead Act, the owner or owners of real property seeking to have property approved as homestead property or farmstead property first must file an application with the assessor on the form provided by the county. The assessor may select, randomly or otherwise, applications filed under the Homestead Act to review for false or fraudulent information, and the assessor is designated to determine the qualification of all or a part of a parcel of real property as homestead property or farmstead property. Applications must be filed with the assessor not later than March 1 of each year. The governing body of a county must adopt a schedule for review or reapplication for real property previously approved as homestead property or farmstead property. The Homestead Act requires the assessor to provide sufficient notice to the public regarding the availability of applications, to designate real property as homestead property or farmstead property and to notify the public of all filing deadlines. The assessor must make applications available at least 75 days before the filing deadline. Applications are filed before the taxing body makes a decision on implementing homestead exclusions.

If an application is denied, the assessor must provide the owner of the property a written notice of denial by first-class mail not later than 120 days after the filing deadline. The notice must include all reasons for denial. A failure to provide the required notice is deemed to be approval of the application by the assessor.

Note: Act 85 of 2000 amended the County Code to temporarily relieve Allegheny County from certain administrative procedures set forth in section 8584 of Act 50.

Appeals Procedure

An owner who is aggrieved by the decision of the assessor may appeal to the assessment appeals board for a review of the decision in a manner consistent with the provisions for appeal of assessments under the applicable assessment law. Appeals to the board are limited to a determination as to whether the application meets the administrative and filing deadlines, or whether the parcel for which the appeal is made meets the definition of "farmstead property" or "homestead property" as defined by the Homestead Act. Appeals regarding the assessed value of real property under the applicable assessment law will be based on the assessed value of the real property before application of the exclusions for homestead property or farmstead property. The issue of qualification as homestead property or farmstead property shall not be raised in an appeal except as provided in the Homestead Act.

An application form for use by assessors has been developed by the Department of Community and Economic Development and is published in the Pennsylvania Bulletin at 28 Pa.B. 5349 (October 24, 1998).

Penalties for False Application

Any person who files an application under the Homestead Act containing false information as to any material matter shall be required to pay: (A) any taxes which would have been due but for the false application, plus simple interest computed at the rate provided in Section 806 of the act of April 9, 1929 (P.L.343, No.176), known as the Fiscal Code (72 P.S. § 1 *et seq.*) and (B) a penalty equal to 10% of the unpaid taxes computed under paragraph (A). Conviction for filing a false application under the Homestead Act is a misdemeanor of the third degree, subject to a fine not to exceed \$2,500.

Assessor Reporting Requirements

At the same time the assessor certifies the tax duplicate, the assessor shall provide to the governing bodies of the county and each political subdivision within the county upon request and at no charge a certified report listing at least all of the following information:

- A. The parcel number of each parcel approved, in whole or in part, as homestead property.
- B. The assessed value of each parcel approved, in whole or in part, as homestead property.
- C. The portion of the assessed value of each parcel listed under paragraph (B) above, which is approved as homestead property.
- D. The median assessed value of all homestead properties listed in paragraph (C), above.
- E. The parcel number of each parcel approved, in whole or in part, as farmstead property.
- F. The assessed value of each parcel approved, in whole or in part, as farmstead property.
- G. The portion of the assessed value of each parcel listed under paragraph (F) above and approved as farmstead property.

The Homestead Act allows the governing body of the county to set reasonable fees for providing customized reports or services not otherwise required under the Homestead Act or other applicable law to political subdivisions.

Notification Required on Change in Use of Property

The Homestead Act requires property owners whose property is approved as homestead property or farmstead property to notify the assessor within 45 days of the date the property no longer qualifies for an exemption allowed under the Homestead Act. Failure to notify the assessor is treated in the same manner as the filing of a false homestead exemption application (See "Penalties for False Application" on 24).

The Homestead Act requires the recorder of deeds to periodically provide to the assessor a list of real property conveyance documents, which have been presented for recording, with the list including the name of the grantor and the address of the property.

Exclusion for Farmstead Property

The Homestead Act provides that if the governing body allows a homestead property exclusion in a political subdivision under the Homestead Act, then such governing body must also allow for a similar exclusion for "farmstead property," with such exclusion applied uniformly to each farmstead property within the taxing jurisdiction. The fixed dollar amount of the exclusion must be set by the governing body, but such exclusion cannot exceed the amount of the exclusion established for homestead property. The Homestead Act also provides that the exclusion for farmstead property is in addition to any exclusion for homestead property for which the dwelling on the farm may qualify. Similar rules for new construction and reassessments apply to the farmstead exemption.

Pennsylvania Department of Community & Economic Development
Governor's Center for Local Government Services
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

USPS 100
APPROVED POLY

