

**CITY OF JOHNSTOWN, PENNSYLVANIA
ORDINANCE NO. 5327**

BILL 2 OF 2022

INTRODUCED IN COUNCIL JANUARY 12TH 2022

AN ORDINANCE AMENDING AND RESTATING THE LOCAL TAXPAYERS BILL OF RIGHTS ADOPTED ON MARCH 24, 1999, BY AMENDING CERTAIN SECTIONS PERTAINING TO RULES AND REGULATIONS, DISCLOSURE STATEMENT, AND ADOPTING A FORM OF TAXPAYER PETITION AND ADOPTING ADMINISTRATIVE APPEAL PROCEDURES; AND AMENDING AND RESTATING THE POWERS AND DUTIES OF THE FINANCE DIRECTOR IN THE BUSINESS PRIVILEGE TAX ORDINANCE.

WHEREAS, the General Assembly of the Commonwealth of Pennsylvania enacted the Local Taxpayers Bill of Rights (the "LTBR") within the provisions of Act 50 of 1998; and

WHEREAS, the Local Taxpayers Bill of Rights requires political subdivisions levying certain local taxes ("Eligible Taxes"), as that term is defined in the LTBR, to adopt rules and regulations for practice, procedure and administration in the audit, assessment, appeal, determination and collection of Eligible Taxes; and

WHEREAS, the City of Johnstown levies certain taxes which qualify as Eligible Taxes under the LTBR adopted on March 24, 1999; and

WHEREAS, in order to comply with the requirements of the Local Taxpayers Bill of Rights, the governing body of this political subdivision desires to adopt amended rules and regulations for practice and procedure implementing the LTBR, a Notice to Taxpayers, a Disclosure Statement and administrative appeal procedures relating to taxpayer Petitions; and

WHEREAS, Section 872.07 of the Business Privilege Tax Ordinance, Ordinance 4670 passed on July 13, 1994, requires modification to be consistent with the amended rules and regulations in the LTBR.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Council of the City of Johnstown, Pennsylvania, that the following amendments be made as follows:

Section 1. Section 899.03 of the LTBR is hereby modified, as shown below, in order to permit City Council to update and replace the content of the referenced exhibits as attached and incorporated herein.

Section 889.03. Disclosure Statement; Confidentiality; Response to Information Requests; Appeals.

- (a) Disclosure Statement. ~~The City hereby adopts the Disclosure Statement. Any taxpayer contacted regarding an assessment, audit, determination, review or collection of an eligible tax receiving an assessment notice for an eligible tax shall simultaneously~~

receive a Notice of Availability of Local Taxpayer Bill of Rights. The requisite Notice of Availability shall be as set forth in Exhibit "B" attached to original Resolution 8535, passed March 24, 1999, and incorporated herein by reference. If a taxpayer requests the Local Taxpayer Bill of Rights Disclosure Statement, a copy shall be mailed to the taxpayer at the City's expense. **The Local Taxpayer Bill of Rights Disclosure Statement attached hereto as Exhibit A and incorporated herein are hereby approved and adopted. The Taxpayer Bill of Rights Notice, attached hereto as Exhibit B and incorporated herein are hereby approved and adopted.**

...

- (c) Time Limitation for Response to Information Requests. A taxpayer shall have at least thirty days to respond to a request for information from the City. When the City requests information from a taxpayer, it shall simultaneously provide the taxpayer with an Information Request Time Extension Procedure Notice. The form for such notice is set forth in Exhibit "C" attached to original Resolution 8535, passed March 24, 1999, and incorporated herein by reference. If the taxpayer requests a reasonable extension of time to respond to an information request, and states good cause, the request will be granted. The City will not take any action against a taxpayer for the tax year in question until the expiration of the applicable response period, including extensions. **Rules for Responses to Requests for Information, and requests for time extensions to provide such information, attached hereto as Exhibit C and incorporated herein are hereby approved and adopted.**
- (d) Tax Appeals. Act 50 requires the City to adopt regulations concerning the form and content of petitions, as well as practices and procedures for tax appeal petitions. The required regulations, as adopted by the City, are as set forth in Exhibit "D" attached to original Resolution 8535, passed March 24, 1999, and incorporated herein by reference. **The Governing Body hereby determines Tax Appeal Information and Regulations, attached hereto as Exhibit D and incorporated herein are hereby approved and adopted.**

Section 2. Section 899.04 of the LTBR is hereby deleted as shown below:

~~Section 889.04. Administrative Procedures.~~

~~In order to make the determinations in petitions from taxpayers relating to an assessment or refund of an eligible tax, the City hereby adopts the following administrative process:~~

~~Hearings and decisions shall be by a hearing officer appointed by the City Council. The City of Johnstown shall determine the qualifications of such hearing officer, and compensation, if any, and shall appoint the hearing officer by way of a separate resolution.~~

Section 3. Section 872.07 of the Business Privilege Tax Ordinance is modified as shown below:

872.07 POWERS AND DUTIES OF FINANCE DIRECTOR.

- (a) The Finance Director or his or her duly appointed representative or agent shall collect and receive the taxes, fines and surcharges imposed by this chapter. The Finance Department shall keep a record showing the amount received from each person paying the tax and the date of such receipt.
- (b) The Finance Director is hereby charged with the administration and enforcement of this chapter and is hereby authorized to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this chapter, including provision for the examination and correction of returns and payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Finance Director shall have the right to appeal to the appropriate court or courts as ~~in other cases provided~~ established in the Local Taxpayers Bill of Rights and law.

Section 4. All ordinances and resolutions or parts thereof that are in force when the proposed amendments as set forth above are adopted and made effective, and which are not in conflict with said amendments, shall remain and continue in force until they are amended or specifically repealed, either in whole or in part.

Section 5. 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, it being the intent of this Governing Body that the remainder of the Ordinance shall remain in full force and effect.

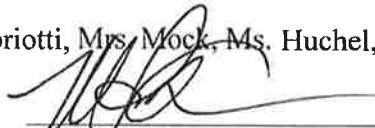
Section 6. This Ordinance shall become effective in accordance with the provisions of law and shall be applicable to Eligible Taxes as of December 8, 2021.

ORDAINED and ENACTED by the City Council of the City of Johnstown, County of Cambria, the Commonwealth of Pennsylvania on this 9th day of **February**.

PASSED FINALLY IN COUNCIL: February 9, 2022

by the following vote:

Yeas: Mr. Britt, Mr. Arnone, Rev. King, Mr. Capriotti, Mrs. Mock, Ms. Huchel, Mayor Janakovic
Nays:



Frank J. Janakovic, Mayor
Michael Capriotti, Deputy Mayor

ATTEST: I do hereby certify that the foregoing is a true and correct copy of Ordinance No.5327 as the same was passed finally by City Council and signed by the Mayor and/or Deputy Mayor of the City of Johnstown, Pennsylvania.



Ethan Imhoff, City Manager

EXHIBIT A
Taxpayer Notice
Disclosure Statement

Pursuant to the Local Taxpayers Bill of Rights

Taxpayer Name and Address:

Re: Real Estate Transfer Tax and Amusement Tax

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 City of Johnstown's Director of Finance at 814-539-2504 during the hours of 8:00 a.m. and 4:00 p.m. 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:
401 Main Street, Johnstown, PA 15901.

Re: Earned Income Tax, Local Services Tax, Business Privilege Tax and Mercantile Tax

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 Berkheimer Associates at 610-588-5765 during the hours of 8:00 a.m. and 4:00 p.m. 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:
Berkheimer Department of Appeals, 1883 Jury Road, Pen Argyl, PA 18072.

EXHIBIT B
City of Johnstown
Disclosure Statement of Rights 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 City of Johnstown, and any enforcement or collection actions taken by the City of Johnstown Finance Director or designee on behalf of the City of Johnstown.

Applicability/Eligible Taxes

This Disclosure Statement applies to all eligible taxes levied by the City of Johnstown. For this purpose, eligible taxes do not include real property taxes. The specific eligible tax(es) levied by the City of Johnstown are: (1) Earned Income Tax; (2) Real Estate Transfer Tax; (3) Business Privilege Tax; (4) Local Service Tax; and (5) Mercantile Tax. 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 thirty (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 ninety (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 ninety (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 City Hall, 401 Main Street, Johnstown, PA. Your Petition must be mailed or delivered to the attention of the Director of Finance at the following address: City of Johnstown Finance Office, 401 Main Street, Johnstown, PA. After your Petition is received, we will notify you of your hearing date, if you requested a hearing. A decision by the Board of Appeals or City Council in Executive Session, as appropriate, will be made within sixty (60) days of the date your complete and accurate Petition is received. If you do not agree with the decision of the Board of Appeals or City Council in Executive Session, as appropriate, you may appeal to the appropriate Court of Common Pleas of Cambria County. You must file your appeal within thirty (30) days after notice of the decision of the Board of Appeals or City Council in Executive Session, as appropriate.

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 (3) years of the due date for filing the return as extended or one (1) 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 three (3) years after the due date for payment of the tax or within one (1) 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 (1) 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 City Hall, 401 Main Street, Johnstown, PA. Your Refund Claim must be filed with us at City of Johnstown Finance Office, 401 Main Street, Johnstown, PA. 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 Board of Appeals or City Council in Executive Session, as appropriate, will be made within sixty (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 City of Johnstown Finance Office at the following address: 401 Main Street, Johnstown, PA.

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 the Board of Appeals or City Council 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, the city's Finance Director may be contacted in writing at 401 Main Street, Johnstown, PA. This individual will attempt to facilitate resolution of your complaint by working with the appropriate personnel of the Tax Administrator and/or the Board of Appeals and/or City Council.

EXHIBIT C

INFORMATION REQUEST TIME EXTENSION PROCEDURE NOTICE

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

Under Pennsylvania law, we are required to allow you thirty (30) calendar days to respond to our request for information. This thirty (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 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:

City of Johnstown Finance Director
City Hall, Room 104
401 Main Street
Johnstown, PA 15901

We will grant a reasonable extension of time 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.

EXHIBIT D

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. The City Council of the City of Johnstown in Executive Session.

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.

Local Government. The City of Johnstown

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 City of Johnstown, the Tax

Administrator is the City of Johnstown Finance Director for amusement, business privilege and mercantile taxes or Berkheimer Associates on behalf of the City of Johnstown for local services tax and earned income tax.

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.
- (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

(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 (3) 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 (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. If no report or return is required, the Petition shall be filed within three (3) years after the due date for payment of the Eligible Tax or within one (1) 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.
- (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) The taxpayer shall have his or her Petition decided by the City Council 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 City Council may choose to grant a hearing in its sole discretion.

104. Appeals Board. An Appeals Board shall be appointed by the Tax Administrator charged with collection of local services tax and earned income tax. The Appeals Board shall operate within the rules and regulations adopted by the Tax Administrator, which shall be compliant with the LTBR.

In the case of the amusement, business privilege and/or mercantile taxes, the Appeals Board shall consist of the City Council 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.

- (a) The decision by the City Council 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 Cambria vested with the jurisdiction of local tax appeals by or pursuant to 42 Pa.C.S. §5571(b).
- (c) Decisions by the 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) The Appeals Board's final decision shall be in writing and signed by a 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 (3) years of the due date, as extended, for filing the report or tax return, or one (1) year after actual payment of the tax, whichever is later. If no report is required, the request shall be made within three (3) years after the due date for payment of the tax or within one (1) 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.
- (e) The Tax Administrator shall make available an initial refund claim form attached as Schedule 3.

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 Tax Administrator [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.)
- (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.

(f): "**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 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 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

SCHEDULE 1

INFORMATION REQUEST TIME EXTENSION PROCEDURE NOTICE

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

Under Pennsylvania law, we are required to allow you thirty (30) calendar days to respond to our request for information. This thirty (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 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:

City of Johnstown Finance Director
City Hall, Room 104
401 Main Street
Johnstown, PA 15901

We will grant a reasonable extension of time 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.

City of Johnstown 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 City of Johnstown Finance Director, 401 Main Street, Johnstown, PA, 15901. Petitions appealing an Assessment Notice must be received by the City Council within 90 days of the date of the Assessment Notice. Petitions for refunds must be received by the City Council 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	
NAME (LAST, FIRST, MIDDLE INITIAL):	
STREET ADDRESS:	
CITY, STATE, COUNTY, ZIP CODE:	
PHONE:	FAX:
PREVIOUS STREET ADDRESS (IF APPLICABLE):	
CITY, STATE, COUNTY, ZIP CODE:	
SOCIAL SECURITY NUMBER:	TAXPAYER IDENTIFICATION NUMBER:

SECTION B: TAX INFORMATION	
TYPE OF TAX:	
IS THIS PETITION FOR A REFUND? <input type="radio"/> Yes <input type="radio"/> No	IF SO, WHAT AMOUNT?
TAX YEAR:	QUARTER:
SCHOOL DISTRICT:	
BOROUGH:	TOWNSHIP:
CITY:	TOWN:
COUNTY:	

SECTION C: REPRESENTATIVE INFORMATION		SEND ALL COPIES OF CORRESPONDENCE TO:
Complete information for Representative (if applicable)		
NAME (LAST, FIRST, MIDDLE INITIAL):		
IS REPRESENTATIVE AN (CIRCLE ONE):		
<input type="checkbox"/> Attorney <input type="checkbox"/> Certified Public Accountant <input type="checkbox"/> Other Accountant <input checked="" type="checkbox"/> Other Tax Advisor		
BUSINESS NAME:		
STREET ADDRESS:		
CITY, STATE, COUNTY, ZIP CODE:		
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 7 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):

DATE:

TITLE:

**City of Johnstown
Initial Refund Claim Form**

Instructions

This form is to be used by taxpayers seeking an initial claim for refund from the City of Johnstown. Taxpayers whose initial refund claim has been denied and are appealing such denial must file a Petition for refund with the City Council. 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 City of Johnstown Finance Director, 401 Main Street, Johnstown, PA, 15901 (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	
NAME (LAST, FIRST, MIDDLE INITIAL):	
STREET ADDRESS:	
CITY, STATE, COUNTY, ZIP CODE:	
PHONE:	FAX:
PREVIOUS STREET ADDRESS (IF APPLICABLE):	
CITY, STATE, COUNTY, ZIP CODE:	
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:
NAME (LAST, FIRST, MIDDLE INITIAL):		
IS REPRESENTATIVE AN (Circle One):		
<input type="checkbox"/> Attorney <input type="checkbox"/> Certified Public Accountant <input checked="" type="checkbox"/> Other Accountant <input type="checkbox"/> Other Tax Advisor:		
BUSINESS NAME:		
STREET ADDRESS:		
CITY, STATE, COUNTY, ZIP CODE:		
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:

DATE

TITLE: