

**CITY OF YORK**  
**York County, Pennsylvania**

**BUSINESS PRIVILEGE AND  
MERCANTILE TAX  
RULES and REGULATIONS**

**And**

**BUSINESS PRIVILEGE AND  
MERCANTILE TAX ORDINANCE**

## INTRODUCTION

Persons desiring to do business in the City of York are required to obtain a business privilege/mercantile license and pay a tax on gross receipts.

These Regulations provide a formal interpretation of the City of York's Business Privilege and Mercantile Tax Ordinance (Codified Ordinances Article 343) and establish procedures for its administration. The Tax Ordinance is attached and set forth as Addendum "A".

These regulations are adopted pursuant to the authority set forth in Article 343 of the Codified Ordinances, and shall be interpreted, whenever possible, to be consistent with the Business Privilege and Mercantile Tax Ordinance. In the event that a provision of these Regulations shall be inconsistent with the Business Privilege and Mercantile Tax Ordinance, the provisions of the Ordinance shall prevail.

Compliance with these Rules and Regulations shall be sufficient to bar imposition of penalty by the York Area Tax Bureau.

**THESE ARE REVISED REGULATIONS. THEY ARE EFFECTIVE AS OF 12:01AM, JANUARY 1, 2004. ALL PREVIOUS VERSIONS OF THE BUSINESS PRIVILEGE AND MERCANTILE TAX REGULATIONS ARE VOID.**

For information or additional copies, please contact:

York Area Tax Bureau  
PO BOX 15627  
York, PA. 17405

Telephone: 717 854 8084 or 717 843 3113

Fax: 717 854 6376

Email: [info@yatb.com](mailto:info@yatb.com)

Web site: [www.yatb.com](http://www.yatb.com)

Office hours: 8:00 to 4:00 Monday - Friday

# **BUSINESS PRIVILEGE AND MERCANTILE TAX RULES and REGULATIONS**

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ADDENDUM "A"

Codified Ordinances, Article 343 "The Business Privilege and Mercantile Tax Ordinance"

ADDENDUM "B"

York Area Tax Bureau Disclosure Statement of Bureau's and Taxpayer's Rights and Responsibilities

**CITY OF YORK BUSINESS PRIVILEGE AND  
MERCANTILE TAX RULES AND REGULATIONS**

**ARTICLE I  
BUSINESS PRIVILEGE AND MERCANTILE LICENSE**

**Section 100. License Required.**

Any person desiring to conduct a new business in the City of York must first obtain a Certificate of Use and Occupancy from the City of York Permits/Zoning Office located in the City of York @ 1 Marketway West, Floor 3, York, PA. 17401. Applications can be obtained by calling 717 849-2256. Any person desiring to commence, or continue to conduct any business, as defined in Article 343 of the Codified Ordinances of the City of York, Pennsylvania within the City shall obtain a business privilege and mercantile license.

**Section 101. Prerequisites for Issuance of License.**

No license shall be issued until any and all permits required by the City of York Permits/Zoning have been obtained and provided to the York Area Tax Bureau.

No license will be issued to any person in default of any tax due to the City of York, levied under the Codified Ordinances Article 339 (Occupational Privilege Tax Ordinance), Article 333 (Earned Income Tax Ordinance), and/or Article 343 (Business Privilege and Mercantile Tax Ordinance).

**Section 102. Fee, Term, and Proration.**

The Business Privilege and Mercantile Tax License fee shall be \$ 25.00 for each tax year. The fee shall not be reduced pro rata by the portion of the license year elapsed in the year the license is first procured.

**Section 103. Posting.**

Licenses shall be kept and posted as follows:

Fixed place of business. Licenses shall be posted in a conspicuous place upon the premises where business is conducted. Fair, festival, and/or craft vendors who do business from a stand, booth, and/or other fixed, temporary place of business shall post the license conspicuously upon that fixed, temporary place of business.

Operating from a cart or vehicle. License shall be posted in a conspicuous place upon the cart or vehicle from where business is being conducted.

Contractors domiciled outside the City of York. Contractors domiciled outside the City of York, who have obtained a Business Privilege and Mercantile Tax License to do business within the City of York shall keep the license available for inspection at the site where business is being conducted.

Vending machine owners. A person or business who sells goods, wares or merchandise by means of vending machines shall procure one license covering all of the vending machines, and shall post it at the principal place of business. A person or business operating arcade and video games shall be considered to be a vending machine owner.

Others. Licensees engaged in business, but not operating from a fixed place of business or from a vehicle, shall keep the license with their books of account or other business records and have it available for verification if requested.

**Example:** Rental business – persons or businesses who rent residential or commercial property within the City of York are not required to post a license in the individual rental units.

#### **Section 104: License for Branch Establishments:**

In the event that a licensee conducts business at more than one location in the City of York, an additional license is required for each additional place of business (except vending machines). Additional licenses shall be posted in accordance with the provisions of Section 103 of these Regulations. The fee for each additional license shall be \$ 25.00 in accordance with Section 102 of these Regulations.

#### **Section 105: License for Fairs, Festivals, Carnivals, Craft Shows/Fairs, and Other Temporary Places of Business.**

It shall be the duty and requirement of the sponsoring individual, group, Association or Corporation (including non-profit organizations) to provide to all of its vendors a City of York Business Privilege and Mercantile Tax License Application and further, to provide the City of York Permit/Zoning Office with the following information at least thirty (30) days prior to any such festival, fair, carnival, craft fair or any other temporary place of business:

- 1) the event's scheduled dates and times
- 2) listing of all food, craft, and retail vendors
- 3) schedule of all vendor fees imposed by the sponsoring individual, group, Association, Corporation or non-profit organization, including but not limited to, registration fees, table fees, booth fees, utility fees, etc.

When any such festival, fair, carnival, craft fair or any other temporary place of business (collectively referred to herein as "Temporary Event") shall issue tickets, coupons, chips, or other form of "currency" exclusive to their event, it shall be the duty and requirement of the sponsoring individual, group, Association, Corporation, or non-profit organization to provide the York Area Tax Bureau with an accounting of the ticket, coupon, chip or other form of "currency" exchanged or "cashed in" by its vendors within thirty (30) days of the Temporary Event's closure.

Any person or business desiring to do business at any Temporary Event within the City of York must first obtain any and all permits from the City of York Permits/Zoning Office. Business Privilege and Mercantile Tax Licenses issued to persons or businesses under this Section 105 are valid for the one-year term referenced in Section 102 and no additional Business Privilege and Mercantile Tax licenses need to be obtained for participation in additional Temporary Events within the City of York during the one year term.

A Business Privilege and Mercantile Tax license to conduct business in the City of York

obtained pursuant to Section 100 herein also shall be deemed to apply to Temporary Events that the Business Privilege and Mercantile Tax license holder participates in and no additional Business Privilege and Mercantile Tax need be obtained pursuant to this Section 105 so long as the business conducted at the Temporary Event is the same as the business conducted at the license holder's regular place of business.

Any person desiring to conduct any business, as herein defined, at any Temporary Event shall not be required to obtain a Business Privilege and Mercantile Tax pursuant to this Section 105 if such Temporary Event does not exceed one (1) day; provided, however, that such persons subject to this exemption will be required to make and file tax returns and remit tax due in accordance with Section 301C of these Regulations (within thirty (30) days of the close of the one (1) day Temporary Event).

Any Business Privilege and Mercantile Tax license obtained pursuant to this Section 105 for Temporary Events shall be posted in accordance with Section 103 of these Regulations at each Temporary Event location. A copy of a license obtained pursuant to Section 100 shall be posted in accordance with Section 103 of these Regulations at each Temporary Event location.

Participants in Temporary Events within the City are required to make and file tax returns and remit tax due after the close of each Temporary Event where they conduct business. Additional information regarding filing requirements can be found in Section 301C of these Regulations.

#### **Section 106: Assignment and Transfer Prohibited.**

Business Privilege and Mercantile Tax Licenses may not be assigned or transferred. Any purported transfer or assignment shall be void and ineffective.

#### **Section 107: Replacement Licenses.**

In the event of loss, defacement or destruction of any license, the licensee shall apply for a replacement license. The fee for a replacement license is \$10.00. The fee is payable to the York Area Tax Bureau.

#### **Section 108: Change of Taxpayer's Address.**

Taxpayer's change of address must be reported in writing to the York Area Tax Bureau, within ten (10) days after such change becomes effective.

#### **Section 109: Failure to Procure License and License Revocation.**

Persons that engage in a business without having first procured a Business Privilege and Mercantile Tax License are subject to penalty and fine.

The Business Privilege and Mercantile Tax License may be suspended or revoked at any time

by the Mayor of the City of York on the advice and consent of the City’s Solicitor if it is determined that the holder of the permit or license secured the same by misrepresentation; failed to maintain qualifications required by Federal, State or Local laws; engaged in fraudulent behavior or misleading advertising; consented to or allowed any behavior which would constitute a crime under Federal, State or Local laws, including but not limited to drug trafficking or drug possession; committed an act of gross negligence, or allowed any manner or form of public nuisance.

To allow for proper due process, the License Tax Officer is hereby authorized to decide any appeals from the decision of the Mayor as set forth above.

**ARTICLE II  
BUSINESS PRIVILEGE AND MERCANTILE TAX**

**Section 200: Authority.**

The Business Privilege and Mercantile Tax Ordinance was enacted under the authority of the Local Tax Enabling Act (Act 511 of 1965), 53 P.S. § 6901 *et seq.*, and appears in the Codified Ordinances of the City of York at Article 343 (attached as Addendum “A”).

**Section 201: Definitions.**

As used in these regulations:

“Assessment” – The determination by the City of York’s License Tax Officer of the amount of underpayment by a taxpayer.

"Association" – A partnership, limited partnership, or any other unincorporated group of two or more persons or a limited liability company.

“Bureau” - York Area Tax Bureau. The bureau performs the function of the License Tax Officer.

"Business" – Any activity carried on or exercised for gain or profit in the City, including but not limited to, the sale of merchandise or other tangible personal property or the performance of services. As to those taxpayers having a place of business within the City, “business” includes all activities carried on within the City and those carried on outside the City attributable to the place of business within the City.

"City" – The City of York in York County, Pennsylvania.

"Contractor" – Every person engaged in the business of furnishing labor, materials, or both labor and materials, in connection with all or any part of the construction, alteration, repairing,



dismantling or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, and every other type of structure as an improvement, alteration or development of real property.

"Corporation" – A corporation or joint stock association organized under the laws of the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency.

"Current Year" – The calendar year for which the tax is being levied.

"Date of Overpayment" – The later of the date paid or the date tax is deemed to be overpaid as follows:

- (1) 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.
- (2) An overpayment made before the last day prescribed for payment shall be deemed to have been paid on the last day.
- (3) Any amount claimed to be overpaid with respect to which lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid 60 days following the initiation of the review or procedure.

"Date of Resolution" – The date the overpayment is refunded or credited as follows:

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

"Domicile" – The place where one lives and has his or her permanent home and to which he or she has the intention of returning whenever he or she is absent. Domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him

or her to adopt some other permanent home. In the case of a business entity, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

"Dwelling" – Any building, structure or single unit intended to provide complete independent living facilities for one or more persons which has permanent provisions for living, sleeping, eating, cooking and sanitation by human occupants, but does not include hotels, boarding and rooming houses.

"Dwelling Unit" – A room or group of rooms within a building, which forms one habitable unit with facilities used or intended to be used for living, sleeping, sanitation and the preparation of meals, and arranged for occupancy by one family.

"Gross Receipts" – Cash, credits or property of any kind received in exchange for merchandise sold or services performed or other business activity conducted within or attributable to the City, without deduction there from on account for costs of property or merchandise sold; materials, labor or services furnished or used; interest or discount paid; or any other business related expense, as permitted by regulation.

“Gross volume of business” means the money or money’s worth received by any vendor in, or by reason of, the sale of goods, wares, merchandise, or services rendered.

“License Tax Officer” means the person authorized and empowered by Council to collect the taxes imposed hereby and to enforce the provisions of this article

“License year” means the calendar year beginning January 1, and ending December 31, and each calendar year thereafter.

"Independent Agent, Contractor, or Representative" – A person who, while performing services for another person, is not subject to the direction and control of the other as to the details, methods and means by which a result directed by the other is accomplished.

"Landlord" – A person who is in the business of leasing or renting three or more dwelling units or one or more commercial space(s). For the purpose of this Article, “commercial” shall include all business uses, including, but not limited to, manufacturing/industrial use, retail/wholesale use, office space and provision of services.

"Lease" – A transfer of the right to possession and/or use of real or personal property (including intangible personal property) for a term in return for consideration. A sale, including a sale on approval, or retention or creation of a security interest is not a lease. For purposes of these regulations any “rental” of property shall be treated as a lease.

“Local taxing authority” – A political subdivision levying an eligible tax. The term shall include any officer, agent, agency, clerk, Income Tax Officer, employee or other person to whom the governing body has assigned responsibility for the audit, assessment, determination or administration

of an eligible tax. The term shall not include a tax collector or collection agency who has no authority to audit a taxpayer or determine the amount of eligible tax or whose only responsibility is to collect an eligible tax on behalf of the governing body.

"Merchandise" – Produce, goods, commodities, food or foodstuffs, wares, items, products, crops, livestock, animals, metals, gems, or any other property of whatever description, whether new or used.

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

"Nonresident" – A Person domiciled outside the taxing district.

"Person" means any individual, partnership, limited partnership, association, firm, or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

"Preceding Year" – The calendar year before the Current Year.

"Resident" – A Person domiciled in the taxing district.

"Retail Sales" – Sales made by persons engaged, as owner or agent, in the business of selling or exchanging merchandise for cash or barter or any consideration on the assumption that the purchaser of such goods has acquired the same for ultimate consumption or use and not for resale.

"Sale" – The passing of ownership from a seller to a buyer for a price, or for a consideration.

"Service" means any act or instance of helping or benefiting another for consideration.

"Succeeding Year" – The calendar year following the Current Year.

"Tax" or "The Tax" – The City of York Business and Mercantile Tax.

"Taxing District" or "District" – The City of York whose Ordinance has provided for levying and assessing a gross receipts tax.

"Taxpayer" means a person subject to the payment of the tax imposed by this article.

"Tax year" means the calendar year beginning January 1, and ending December 31, and each calendar year thereafter.

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

"Treasurer" means the Treasurer of the City of York.

"Voluntary Payment" – The payment of an eligible tax made pursuant to the free will of the Taxpayer. The term does not include a payment as a result of distraint or levy or pursuant to a legal proceeding in which the local taxing authority is seeking to collect its delinquent taxes or file a claim therefor.

"Wholesale Sales" – Sales made by persons engaged, as owner or agent, in the business of selling to, or exchanging with another person, goods for cash or barter or any consideration, for the purpose of resale by the person acquiring the goods sold or exchanged.

**Section 202. Who Must File a Return.**

Every person who has carried on or exercised business activity within the City of York must file a Business Privilege and Mercantile tax return. A Business Privilege and Mercantile tax return must be filed whether or not tax is due. In the case of a partnership, for example, the tax is calculated on the Gross Receipts of the partnership rather than the individual income of the partners. Any or all of the individual partners may be held responsible for the filing of the tax return and payment of the tax. In the case of a corporation, for example, the tax is calculated on the Gross Receipts of the Corporation. Corporate officers shall be held responsible for the filing of the tax return.

**Section 203. Nature and Imposition of Tax.**

The Business Privilege and Mercantile Tax is a tax on the privilege of doing business in the City of York. A person exercises the privilege of doing business by engaging in any activity within the limits of the City to promote the sale of goods or the provision of services. It is not necessary to be a Resident of the City of York, or to have an office or place of business within the City, to be doing business in the City.

**Section 204. Base Rates of Tax, Computation of Volume of Business, and Determination of the Gross or Whole Volume of Business.**

**A. Tax Base.** The tax is based on gross receipts attributable to doing business in the City of York. To determine whether Gross Receipts are attributable to doing business in the City of York see Attribution of Gross Receipts, Section 205. Receipts from certain activities are excluded from taxation, see Exclusion from Gross Receipts, Section 206 and Interstate Commerce, Section 207.

**B. Tax Rate.** The rate of tax varies depending on the nature of the business activity performed, as follows:

**NOTE:** The Business Privilege and Mercantile Tax rates are the applicable tax rates levied by the City of York for the Tax year at issue.

1. **Receipts from the Performance of Services.** On Gross Receipts generated by the performance of services, the rate of tax is .0035 (\$3.50 per one thousand dollars).

**Example:** Taxpayer, a partnership of consultants, earns \$1,000,000.00 in gross sales (receipts) by performing services. The tax is calculated:

$$\begin{array}{r r r r r} \text{Gross Receipts} & & \text{Rate} & & \text{Tax} \\ \$1,000,000.00 & \times & .0035 & = & \$3,500.00 \end{array}$$

2. **Receipts from Sales of Merchandise.** The rate of tax on receipts from sales of merchandise varies depending on whether such sales are classified as “Wholesale Sales” or “Retail Sales” (see Definitions, Section 201).

- a) **Receipts from Wholesale Sales.** On receipts generated by the Wholesale Sales of merchandise, the rate of tax is .001 (\$1.00 per thousand dollars).

**Example:** Taxpayer, a wholesale dealer of automobile parts, has gross sales (receipts) of \$5,000,000.00. The tax is calculated as follows:

$$\begin{array}{r r r r r} \text{Gross Receipts} & \text{Rate} & & \text{Tax} \\ \$5,000,000.00 & \times & .001 & = & \$5,000.00 \end{array}$$

- b) **Receipts from Retail Sales.** On receipts generated by the Retail Sales of merchandise, the rate of tax is .0015 (\$1.50 per thousand dollars).

**Example:** Taxpayer, a retail dealer of automotive parts, has gross retail sales (receipts) of \$2,000,000.00. The tax is calculated as follows:

$$\begin{array}{r r r r r} \text{Gross Receipts} & \text{Rate} & & \text{Tax} \\ \$2,000,000.00 & \times & .0015 & = & \$3,000.00 \end{array}$$

- c) **Receipts attributable to the performance of a service.** This includes labor and materials entering into or becoming component parts of the service performed. The rate of the tax is .0035 (\$3.50 per thousand dollars).

**Example:** Attorney has gross receipts for the performance of services.

$$\begin{array}{r r r r r} \text{Gross Receipts} & \text{Rate} & & \text{Tax} \end{array}$$

$$\$900,000.00 \times .0035 = \$3,150.00$$

3. **“Unearned” business receipts.** Receipts derived from dividends, interest, gain on the sale of capital assets; and the receipts from the license, or use, of intangible property (including, for example, copyrights, trademarks, licenses, patents, royalties, and other intellectual property) received by persons doing business in the City of York are subject to the tax at the rate for services set forth in Section 204.B.1. Capital assets do not include inventory, stock-in-trade or other assets held for sale in the ordinary course of business. For the purpose of calculating gain on the sale of capital assets, return of capital may be deducted.
4. **Businesses engaged in more than one classification of business activity.** Businesses which engage in more than one classification of business activity (for example, a service provider whose business includes the sale of products, or a sales office that provides both retail and wholesale sales), must segregate the receipts from each classification and pay tax at the rate specified for each. Failure to segregate receipts according to classification may result in all receipts being taxed at the highest rate reasonably supportable.

**C. Computation of Volume of Business:**

1. For businesses that started in the current “tax year”, the tax shall be due on April 15 of the current year and shall be based on the “gross volume of business” transacted on the first full month of operation multiplied by the number of full months that the business shall be in operation for the tax year. If the business starts operations after April 15 of the current “tax year” that tax shall be computed in the same manner but shall not be due until the fifteenth day of the month following the first full month of operation. At the end of the year every business that started that year shall reconcile the estimated tax payment to the figure they reported on the gross receipts or sales line of their federal tax return. If the amount of the tax paid is less than the figure reported on the federal tax return, the business shall remit payment to the York Area Tax Bureau within thirty days of filing their return. If the estimated amount is more than the figure reported on the federal tax return, the business owner shall contact the York Area Tax Bureau for an adjustment.
2. For a business that started operations in the year preceding the current “tax year” the business shall pay its tax in the current year based on the gross receipts sales line of their federal tax return for the preceding year pro-rated to twelve months. The tax shall be paid in full on or before April 15 of the current “tax year”.
3. For a business that has been in operation one full year or more prior to the current “tax year”, the tax shall be computed based on the gross volume of

business transacted in the preceding “tax year” and shall be due in full on or before April 15 of the current year.

4. Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal, or itinerant by nature, shall compute his gross amount of business within the City from his actual gross receipts for the license year.

**D. Persons, Businesses and Receipts Exempted from Payment of Tax:**

1. **Persons and Businesses:** Persons employed for wage or salary, nonprofit corporations or associations organized for religious, charitable or educational purposes, agencies of the government of the United States or of the Commonwealth of Pennsylvania and any political subdivision, or of any authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this article.
2. **Court Exemptions:** No such tax shall be assessed and collected on a privilege, transaction, subject or occupation which is subject to a revenue producing State tax or license fee, and which tax or license fee has been held by the courts of Pennsylvania to be the basis for exemption from the imposition of a business privilege or mercantile tax by a municipality.
3. **Utilities:** No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission, or any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.
4. **State tax on tangible property:** No such tax shall be assessed and collected on the privilege of employing such tangible property as subject to a State tax except on sales of admission to places of amusement or on sales of other transfers of title or possession of property.
5. **Landlords and rental property:** No such tax shall be assessed and collected on the gross receipts received as rent by a landlord or his agent.
6. **Production and manufacture:** No such tax shall be assessed and collected on goods, articles and products or on by-products of manufacture, or on minerals, timber, natural resources and farm products manufactured, produced, or grown in the City, or on the preparation of processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation, or processing of minerals, timber and natural resources or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or any privilege, act or transaction relating to the business of processing

by-products of manufacture, or on the transportation, loading or dumping or storage of such goods, articles or products of by-products.

7. Gross receipts tax or fee: No such tax or fee shall be assessed or collected on any receipts which are subject to a gross receipts tax or fee under any other ordinance of the City.

**E. Determination of the Gross or Whole Volume of Business:** Gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made and/or services rendered, subject only to the following allowable deductions and exemptions:

1. The dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as a trade-in or as part payment for other goods, wares or merchandise, except to the extent that the resale price exceeds the trade-in allowance;
2. Refunds, credits or allowances given by a taxpayer to a purchaser on account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned;
3. Any commission paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such broker; and sales contract initiated, executed with such other broker; and
4. Bad debts, where the deduction is also taken in the same year for Federal income tax purposes.

**F. Partial Exemptions:** Where gross receipts or whole volume of business in its entirety cannot be subjected to the tax imposed by this article by reason of the provisions of the Constitution of the United States, or any other provisions of the law, including, but not limited to, Court decisions from Pennsylvania Courts of competent jurisdiction, only that part of the gross or whole volume of business which is properly attributable and allowable to doing business in the City shall be taxed hereunder.

**G. Rate When Same Tax is Imposed by Two Taxing Bodies:** If any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act, 1965, December 31. P.L. 1257 (53 P.S. 6901 et seq.), to the City and one or more political subdivisions of the Commonwealth, then in that event, the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but, in no event shall the combined taxes of both subdivisions exceed a maximum rate of tax as fixed by such Enabling Act permitting the imposition of such taxes.

**H. Records:** The exempt or partially exempt taxpayer, to obtain the foregoing



enumerated exclusions and deductions, shall keep the books and records of his or her business so as to show clearly, accurately and separately the amount of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided.

## **Section 205. Attribution of Gross Receipts.**

**General.** Gross receipts which are fairly attributable to exercising the privilege of doing business within the City are subject to tax.

### **A. Attribution of gross receipts from sales of merchandise.**

1. **Receipts from York sales transactions.** All receipts from Wholesale or Retail Sales made or affected within the territorial limits of the City of York are to be included in taxable receipts. Sales are “made or affected” when an agreement of sale is concluded within the City, or, when an order is accepted or forwarded for confirmation or approval from a location within the City and, as a matter of business custom or practice, delivery is made and the transaction is consummated on the same terms and conditions as set forth in the order.

2. **Delivery outside of York.** Receipts from sales made or affected in York are taxable whether delivery after sale is made within or outside of the City.

**Example:** Taxpayer is distributor of baked goods whose headquarters and only sales office is located in York. Receipts from sales made in York for delivery outside the City of York are attributable to York (unless excludable under Section 207. Interstate Commerce).

**Example:** Taxpayer, a dealer in scrap paper, enters into an agreement in York to sell three tons of paper located in Lancaster. The agreement consummated in York conveys immediate ownership and possession of the metal to Taxpayer’s customer. The Gross Receipts of the sale are properly attributed to York.

3. **Doing business through local representative or sales office.** Receipts from sales made or affected in York by a local representative or sales force are included in taxable receipts.

**Example:** Taxpayer, a wholesale distributor of food products has a home office in Baltimore. It operates a “York Territory” from an office within the City of York where sales are affected for both delivery within and outside the City of York. Shipments are made directly from Baltimore Receipts from sales made or affected from the York office are attributed to York.

**Example:** Taxpayer, a distributor of motorcycles whose home office is in Wisconsin, sells to local York customers through the efforts of a sales representative working from his home within the City of York. Orders are accepted in York and routinely confirmed in Wisconsin. Shipments are made from Wisconsin for delivery both within and outside of York. The Gross Receipts from sales made or affected in York by the York representative are attributable to the City of York.

**B. Attribution of Gross Receipts from the Sale of Services.**

1. **Services performed entirely within York.** All receipts from services performed within the City of York are attributable to the City of York, notwithstanding that a contract for such services may have been entered into outside the City of York, or that services are performed for customers who reside outside the City of York, or that services are performed upon tangible items retrieved from and delivered to locations outside the City of York.

**Example:** Taxpayer, a plumbing and heating contractor whose sole office is in Camp Hill, sends a technician to York to repair a furnace. The receipts earned by the technician's services performed within York are attributed to York.

**Example:** Taxpayer, an employment agency located in Chambersburg, provides staffing to York businesses. Receipts earned as a result of the services performed within York are attributed to York.

2. **Receipts from services directed from York.** Except as provided in the following subparagraph 3. below, receipts from services performed outside of York but which are managed, directed or controlled from within the City of York are attributed to York. Receipts from services performed outside the City of York, earned by persons whose home office is within the City of York, will be presumed to be managed, directed or controlled from within the City of York

**Example:** Taxpayer, a construction firm whose sole office is within the City of York, performs services and constructs projects throughout Pennsylvania. All services and projects are managed, directed or controlled from the City of York. Services will be presumed to have been managed, directed or controlled from the office located within the City of York and all receipts will be attributable to the City.

3. **Receipts from activities directed from York, but subject to business privilege tax elsewhere.** Receipts from activities managed, directed or

controlled from within the City of York, which the Taxpayer can show are subject to a tax on gross receipts for the privilege of doing business imposed by another local taxing jurisdiction, shall be deemed to be fairly attributed to such other taxing jurisdiction and are excluded from receipts taxed by the City of York.

**Example:** Taxpayer, an accounting firm whose sole office is in the City of York, sends junior level personnel to the City of Harrisburg for several months to complete an audit supervised from York. Receipts from the audit are taxed by Harrisburg under that city's business privilege tax. The City of York will allow the exclusion of such receipts provided that proof of filing a tax return and payment of the tax to Harrisburg is demonstrated to the York Area Tax Bureau.

4. **Branch Offices located outside of York.** Receipts from services managed, directed or controlled from a bona fide branch office located outside the City of York are not attributed to York. The following criteria will be considered (as relevant but not conclusive) by the York Area Tax Bureau in determining the existence of a bona fide branch office:

- (a) The appearance of the taxpayer's name in telephone and/or building directories.
- (b) Stationary and calling cards showing the branch office address.
- (c) Storage of inventory or display samples at branch office.
- (d) The existence of a rental agreement (or lease) for space used at the branch office.
- (e) Employment of personnel at the branch office.
- (f) The existence of a business license to operate at the branch office.
- (g) **Field Office.** A field trailer may operate as a bona fide branch office where the trailer bears the name of the taxpayer, the trailer is staffed by the taxpayer's employees who report directly to the field office site, the field office is maintained for not less than 60 days continuously, and a business license is maintained at the field office.

**Example:** Taxpayer, a contractor whose home office is in York, enters into a contract to build a court house complex in Gettysburg. Contractor establishes a bona fide business office in Gettysburg for the duration of the project, from which it manages, directs and controls the entire project. Receipts from the project are attributed to Gettysburg.

4. **Apportionment of receipts where attribution is impossible.** In instances involving the performance of services both within and outside the City of York where it is impossible or impracticable to attribute receipts to a specific source

location, receipts may be apportioned using a ratio equal to the number of hours of service performed within York, divided by the total number of hours of service performed both within and outside the City of York.

**Example:** Taxpayer, an attorney whose office is in Allentown, represents a plaintiff in an automobile accident case. She has a contingent fee agreement with the client. A deposition is conducted in York. The amount of the attorney's time spent in York equates to 14% of the total time spent on this case. If the taxpayer obtains a recovery for the client, 14% of the attorney's fee is to be apportioned to the City of York.

**C. Unfair Attribution.** If, in the discretion of the York Area Tax Bureau, the application of the provisions of this Section 205 results in an unfair or inequitable attribution (or apportionment) of receipts, then the York Area Tax Bureau may permit or require the use of other methods of attribution to produce a fair and equitable attribution of gross receipts. The opinion of the City of York Solicitor may be involved in this decision process.

**Section 206. Exclusions from Gross Receipts.**

Exclusions from taxable gross receipts shall be allowed as follows:

- A. Court Exemptions.** No such tax shall be assessed and collected on a privilege, transaction, subject or occupation which is subject to a revenue producing State tax or license fee, and which tax or license fee has been held by the courts of Pennsylvania to be the basis for exemption from the imposition of a business privilege or mercantile tax by a municipality.
- B. Duplicate State Tax and State Preemptions.** In the event the Commonwealth of Pennsylvania imposes a tax on the same subject matter as is taxed under the City of York Business Privilege and Mercantile Tax, and such State tax is measured by the same gross receipts sought to be taxed by the City of York, the State tax shall prevail, and the same subject shall not be also taxed by the City of York, except on sales of admission to places of amusement or on sales of other transfers of title or possession of property. Any tax or license fee which has been held by the Courts of Pennsylvania to be the basis for exemption from the imposition of a business privilege or mercantile tax by a taxing district.

**Limitation.** Preemption does not relieve the taxpayer from all municipal taxation. Gross receipts which are unrelated to the aspect of business operations the taxation and regulation of which has been preempted by the Commonwealth remain subject to the tax by the City of York. Taxable activity will not lose its character as such merely through association with preempted activity.

- C. Persons and businesses.** Persons employed for a wage or salary, nonprofit corporations or associations organized for religious, charitable or educational purposes,

agencies of the government of the United States or of the Commonwealth of Pennsylvania and any political subdivision, or of any authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this article.

- D. Landlords and rental property.** No such tax shall be assessed and collected on the gross receipts received as rent by a landlord or his agent.
- E. Governmental Entities.** Agencies of the government of the United States, the various individual States, the Commonwealth of Pennsylvania, or any political subdivisions thereof are not subject to the tax.
- F. Utilities.** No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission, or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.
- G. Reimbursement of expenses incurred as agent.** Dollar-for-dollar reimbursements of "out-of-pocket" expenses incurred by an agent for the benefit of its principal are exempt from taxable receipts.

**Example:** Taxpayer, an attorney, advances the costs of a medical examination of his client. The client reimburses the attorney the exact cost of the examination. The reimbursement is excluded from the attorney's taxable gross receipts.

**Example:** Taxpayer, an advertising agency, advances the costs of radio and television advertisement placed by it for the benefit of its client. The amount reimbursed by the client to the agency is excluded from the agency's gross receipts.

- H. Manufacturers, producers, and processors of by-products of manufacturing.** No such tax shall be assessed and collected on goods, articles and products or on by-products of manufacture, or on minerals, timber, natural resources and farm products, manufactured, produced or grown in the City, or on the preparation or processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading or dumping or storage of such goods, articles or products of by-products.

- 1. Ordinary and general meaning.** Ordinary and general meaning shall be given to the words "manufacturing", "producing" and "processing".

- (a) Manufacturing.** Manufacturing means the making of something new

and different, involving a substantial (not superficial) change in material, form, composition, or character, resulting in different goods and articles having a distinctive name, character and use.

**Examples:** Manufacturing has been held to include commercial bookbinding, production of apparel, printing, oil refining, and steel milling. Activities which have been judicially determined **not to be manufacturing** include: radio and television broadcasting; steel annealing and galvanizing; commercial illustration; work product which is primarily intellectual or clerical in nature (e.g. work of an attorney, architect, computer software engineer, etc.); scrap metal bundling; dying and finishing of cloth; purification through pasteurization, filtration and testing for bacteria and impurities; the preparation of potato salad, cole slaw, bread filling, and like examples of “cooking”; adding water to concentrated juice slurry or powdered drink mix to make a finished product; and printing designs and wording on ready made clothing.

(b) **Producers.** The production, preparation or processing of natural resources or farm products (by manufacturers, producers, and farmers with respect to the goods, articles and products of their own manufacture, production or growth) is not subject to the tax.

**Example:** Taxpayer owns an organically grown vegetable farm and sells to a specialty grocery store. Taxpayer’s receipts are excluded from the tax.

**Example:** Taxpayer buys coffee beans at wholesale, roasts them in a commercial oven, and sells the processed beans to local coffee shops. Since the beans processed by the taxpayer are not grown by the taxpayer, the exclusion does not apply. Receipts from the sale of taxpayer’s coffee beans are taxable.

(c) **Processing by-products of manufacturing.** By-products of manufacturing consist of secondary or additional products produced in addition to a principal product. Processing of by-products is not taxable activity whether it is performed by the original manufacturer or by others.

**Example:** Taxpayer takes molten slag, a waste product discarded by a steel manufacturer, and subjects it to a process which enables the iron component to be

separated and sold back to the steel manufacturer. Taxpayer's activity of processing the by-products of manufacturing is not subject to the City of York Business Privilege and Mercantile Tax.

**Example:** Taxpayer is in the business of annealing and galvanizing rolls of steel thereby making the steel more malleable. Taxpayer's activity is not manufacturing since no "new" product is created; nor is it "processing of a by-product of manufacturing" because rolls of steel are not secondary or additional products, but are themselves the principal product of the original manufacturer. Therefore, taxpayer's receipts are taxable.

2. **Application to goods and articles manufactured outside of the City of York.** Receipts excludable under this subsection are excluded whether the product is manufactured, produced or processed within or outside the City of York.

**Example:** Taxpayer manufactures computer equipment in California. It then leases, or sells, the equipment to customers within the City of York. Receipts from the sale or lease of computer equipment by the manufacturer thereof are not subject to the tax.

3. **Goods and articles for own use.** Receipts excludable under this subsection are excluded whether the product is sold to others or used by the taxpayer in its own operations.

**Example:** Taxpayer produces asphalt both for sale to others and for its own use in fulfillment of paving contracts. Taxpayer's sale of the asphalt product to others is not subject to the business privilege and mercantile tax. With respect to the asphalt used by taxpayer to conduct its own business operations, taxpayer may deduct the cost of producing the asphalt from the receipts generated by such business operations and only this deducted amount will be subject to the tax.

4. **Non-manufacturing activities not subject to exclusions.** A manufacturer's receipts from activities other than manufacturing are not excluded.

**Example:** Twenty percent of the gross receipts realized by taxpayer, a manufacturer of small engine parts, are generated by providing maintenance services for products not manufactured by taxpayer. Receipts from such unrelated products are not excluded.

5. **Relation to Pennsylvania Capital Stock and Franchise Tax.** Whether a particular activity qualifies as “manufacturing” or “processing”, under the provisions of the Pennsylvania Capital Stock and Franchise Tax is relevant, but not decisive, in determining whether receipts are excludable under the City of York Business Privilege and Mercantile Tax.
- I. Non-profit Organizations.** Gross receipts generated by non-profit organizations meeting the criteria for “institutions of purely public charity” as set forth in the Institutions of Purely Public Charity Act, 1997, P.L. 508, No.55; 10 P.S. §371 et seq., are not subject to the tax. However, gross receipts derived by non-profit organizations from unrelated trade or business, regularly carried on are taxable.
1. **Unrelated trade or business.** An unrelated trade or business is one in which the conduct of business transactions is not substantially related to the exercise or performance of the exempt purposes of the organization (aside from the need for income or the use made of the profits).
  2. **Regularly conducted.** Activities will be deemed to be regularly conducted if they manifest a frequency and continuity and are pursued in a manner similar to comparable commercial activities of taxable organizations.
  3. **Sales to nonprofit organizations.** Receipts generated from the sales to religious, charitable, educational, governmental, or other entities not themselves subject to the tax, are not excluded from the tax.
- J. Miscellaneous excluded receipts.** Excluded from the Business Privilege and Mercantile Tax are receipts which constitute:
1. Cash discounts to purchasers for prompt payment of bills.
  2. Freight delivery or transportation charges paid by the seller for the purchaser.
  3. Sales of trade-ins, up to the amount given the prior owner as a trade-in allowance.
  4. Refunds, credits or allowances given customers for defective goods returned.
  5. Taxes collected as agent for the United States of America, the Commonwealth of Pennsylvania, or the City of York, or other member taxing authorities utilizing the services of the York Area Tax Bureau.
  6. Exchanges between sellers of identical goods, but not to the extent of any additional cash payment accompanying the exchange.



7. Sales to other sellers in the same line, at the same price for which the seller acquired the merchandise.
8. Transfers between one department, branch or division of a business entity and another, recorded as interdepartmental transfers.
9. Receipts from providing direct-to-home satellite service.
10. Commissions paid by on broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker.
11. Receipts from sales made by a purchasing cooperative acting as the joint agent of its member principals for purchasing in bulk and distributing at cost products sold by its members.
12. Persons employed for wage or salary are exempt from the provisions of this tax.
13. No such tax or fee shall be assessed or collected on any receipts which are subject to a gross receipts tax or fee under any other ordinance of the City of York.

## **Section 207. Interstate Commerce**

**General.** Gross receipts which are fairly attributed to the City of York (see Section 205), earned by any person doing business within the City of York and having substantial nexus to the City of York, are included in taxable gross receipts.

**A. Substantial nexus with York.** Receipts earned by persons having no physical presence or other substantial nexus to the City of York are not subject to the tax.

**Example:** A large mail order company based in Baltimore sells office supplies via catalog sales and common carrier to customers located in York. The company has no sales offices, salespersons or other physical presence in the City of York (except its catalogs). The company's gross receipts are not subject to the tax.

**B. Exclusion of gross receipts subject to tax outside of the Commonwealth.** Gross receipts from activities which are demonstrated by the taxpayer to be subject to a tax on gross receipts for the privilege of doing business imposed by another taxing jurisdiction outside the Commonwealth shall be deemed to be fairly attributed to other such taxing jurisdiction and excluded from receipts taxable by the City of York.

**Example:** Taxpayer is a wholesale distributor of musical instruments whose sole headquarters and only sales offices are located in the City of York. Shipments are made from York to mail order customers and independent representatives throughout the United States. Although

taxpayer has physical presence (substantial nexus) within the City of York, any receipts shown by the taxpayer to be subject to a gross receipts tax on the privilege of doing business imposed by a jurisdiction outside of the Commonwealth of Pennsylvania will be attributed to that jurisdiction and excluded from the gross receipts taxable in York.

**Example:** Taxpayer provides consulting services in the area of structural engineering throughout the United States, the Commonwealth of Pennsylvania and the City of York. All activities are managed, directed or controlled from Taxpayer's home office located within the City of York. Any receipts shown by the taxpayer to be subject to a gross receipts tax on the privilege of doing business imposed by a jurisdiction outside of the Commonwealth of Pennsylvania will be attributed to that jurisdiction and excluded from the gross receipts taxable in York.

## **Section 208. Inclusions in Gross Receipts**

**A. Affiliated Companies.** Receipts from sales to affiliated business entities are included in taxable Gross Receipts.

**Example:** Taxpayer is a wholly owned subsidiary of ABC Company. Taxpayer performs all of ABC's accounting and administrative functions. Taxpayer bills ABC a "management fee" equal to its costs and expenses so that, by design, no profit is generated by Taxpayer. ABC purports to "reimburse" Taxpayer for all its expenses. So long as Taxpayer remains a separate legal entity, the intercompany management fee it receives constitutes taxable Gross Receipts.

## **B. Conditional and Installment Sales.**

1. A person making conditional sales or other installment sales of property is required to report the total selling price of such sales as gross receipts for the tax year in which the contracts of sale are entered into.
2. Where tangible personal property sold under a conditional or other installment sales contract is repossessed by the seller, and the repossessed property is subsequently sold, the receipts from such sales are to be included in the measure of the tax only to the extent that the amount of sale exceeds the balance due on the original sale at the time of repossession. No deduction from Gross Receipts may be taken for any unpaid balance due at the time of the repossession.

**C. Consignment Transactions.** Gross Receipts received by a consignor from consignment transactions are subject to the tax.

**Example:** Taxpayer supplies merchandise to a retail jewelry store for sale on consignment. Taxpayer must include the total Gross Receipts realized

from the sale of merchandise. Note: the commission paid to the jewelry store (consignor's agent) is a taxable receipt to the jewelry store.

**D. Leased Departments.** Gross receipts received from the lease of a department are includable.

**Example:** Taxpayer receives fees for the use of its computer department (personnel and equipment), which it makes available to other companies. Such fees are includable in Gross Receipts.

**E. Persons Erecting Buildings or Altering, Repairing or Improving Property.** Persons in the business of erecting buildings, or altering, repairing or improving real property, under contract (i.e., contractors and subcontractors), shall include in their Gross Receipts all sums paid to them under such contract, without deduction for sums paid to suppliers and/or subcontractors.

**Example:** Taxpayer, a general contractor, builds and sells a new home for \$200,000.00. Payments to subcontractors equal \$50,000.00. Taxpayer may not deduct the payments to subcontractors, but must include the entire \$200,000.00 as taxable Gross Receipts. Each subcontractor must also file and pay the applicable tax owing on their gross receipts.

**F. General Agencies, Brokers, and Agents.**

**1. General Agencies and Brokerage Firms.** All general agencies and brokerage firms shall include in Gross Receipts all revenues received - without deduction for commissions or fees paid to, or withheld by, agents of the general agency or brokerage form.

**Example:** Taxpayer, a broker/dealer registered with the National Association of Securities Dealers, earns commissions on sales of securities made through the efforts of affiliated registered representatives (stock brokers). Taxpayer may not deduct from its Gross Receipts the commissions paid to registered representatives. Similarly, business brokers, real estate brokers, and insurance general agencies may not deduct commissions paid to selling agents.

**2. Agent's commissions.** Independent agents shall include in Gross Receipts all fees, commissions, or other remuneration received for services performed as an agent.

**Example:** Taxpayer is a real estate agent with an office in the City of York who sells a home for \$100,000.00 on which a real estate commission is generated in the amount of \$7,000.00. After the commission is split between the real estate brokerage firms representing the buyer and seller, taxpayer is paid a commission

from the broker with which she is affiliated of \$1,750.00.  
Taxpayer's taxable Gross Receipts are \$1,750.00.

**Example:** Taxpayer sells lottery tickets from his convenience store. Gross commission receipts paid to taxpayer as a lottery agent are taxable.

**Example:** Taxpayer works as a registered representative ("stock broker") for a NASD broker/dealer. Gross commission receipts received by taxpayer are taxable Gross Receipts.

3. **Agent as employees.** Income earned as an employee is not subject to the tax. Any agent asserting status as an employee must provide a copy of Federal Form W2 and/or such other documentation as the York Area Tax Bureau may reasonably require to show employment. Receipts earned by independent agents are subject to the tax even though such persons may qualify as "statutory employees" for purposes of federal income taxation.

### **ARTICLE III DECLARATION AND PAYMENT OF TAX**

#### **Section 300. Tax Returns.**

**A.** Tax returns shall be made using forms approved by the York Area Tax Bureau and the bureau may inquire as to business name, type of activity, business receipts, and any other information reasonably necessary to accurately determine taxpayer identity and liability. Tax returns must be filed whether or not tax is due. The failure to receive a tax return, or form, by mail from the York Area Tax Bureau does not relieve the taxpayer of the responsibility to timely file a tax return. Every person making a return shall certify the correctness thereof by affidavit. The fact that an individual's name is signed on the return shall be prima-facie evidence that such individual is authorized to sign the return on behalf of the taxpayer.

**B.** Every person subject to the tax imposed by this article who commences business prior to the beginning of any tax year shall file a return with the License Tax Officer, setting forth his name, his business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts as prescribed in Section 343 and the amount of the tax due by the 15<sup>th</sup> of April of every tax year.

**C.** Every person subject to the tax imposed by this article who commences business subsequent to the beginning of any tax year, shall within forty days from the date of commencing such business, file a return with the License Tax Officer setting forth his name, his business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts as prescribed in Section 343 and the amount of the tax due.

**D.** Any person required to file a return by this article shall attach to such return the Internal Revenue Service Schedule "C", Form 1065, or Form 1120.

### **Section 301. Due Dates for Filing Returns.**

**A. Quarterly Estimated Returns.** Taxpayers whose annual gross receipts can reasonably be expected to exceed two million dollars (\$ 2,000,000.00), are encouraged to file quarterly declarations of estimated tax and pay twenty-five percent (25%) of the estimated annual tax with each filing. Quarterly returns are due on or before April 30, July 31, October 31, and January 31 of the Succeeding Year. Any overpayment of tax may either be credited to the next year's first quarterly installment or refunded to the taxpayer.

**B. Annual Returns.** Annual returns are due on April fifteenth of the Succeeding Year.

**C. Returns of Temporary, Seasonal or Itinerant Business.** Every person or business engaged in business activity who does not intend to continue such activity within the City of York for a full year or which business activity by its very nature is not permanent shall make and file with the York Area Tax Bureau a tax return, as set forth in Section 300, and pay the tax due thereon within 7 days of the close of the temporary, seasonal or itinerant business activity. For purposes of these regulations vendors at fairs, festivals, and craft shows/fairs shall be considered to be temporary, seasonal or itinerant businesses. Each such business is required to file with the License Tax Officer a return setting forth his name, his business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts for the period he engages in business during the license year and the amount of tax due.

**D. Proof of Mailing.** The postmark of the United States Postal Service shall constitute proof of mailing. The postmarked date may constitute the filing date of the tax return.

### **Section 302. Extension of Time for Filing Returns.**

**A.** The York Area Tax Bureau upon proper cause shown may grant an extension of not more than sixty (60) days for the filing of any tax return. Applications for extensions shall be made on or before the last day for payment of the tax (April fifteenth), in such form as the York Area Tax Bureau Administrator prescribes.

**B.** If the Taxpayer files a request for extension of time to file returns with the Internal Revenue Service and is granted such extension by the Internal Revenue Service, the extension will not be honored by the York Area Tax Bureau unless a copy of the Taxpayer's request is filed with the York Area Tax Bureau on or before the last day for payment of the tax (April fifteenth).

**C.** In order for an extension to be granted the Taxpayer must file an Extension Request Form and pay 100% of the tax estimated to be due on or before the due date. The granting of any extension will not relieve the Taxpayer from the obligation to pay interest and penalty upon any tax that remains outstanding after the due date (April fifteenth). Extensions are granted for filing of the tax return only. There are no extensions for payment of the tax.

**Section 303. Filing to be Complete.**

Returns shall be completed in full and certified as true and correct by the taxpayer, supported by all additional forms or schedules required (including Federal Income Tax Schedule C if Taxpayer is a sole proprietor; Federal Form 1065 if Taxpayer is a partnership; Federal Form 1120/1120S if Taxpayer is a corporation; Federal Form 990 if Taxpayer is a non-profit organization). In cases where the taxable Gross Receipts, as calculated by the taxpayer, differ from Gross Receipts reported on the Federal Tax Form a reconciliation that fully explains the difference must accompany the tax return.

Completed tax returns must be accompanied by payment of tax and delivered to the York Area Tax Bureau on or before April fifteenth of the succeeding year.

**Section 304. Business Termination.**

Any taxpayer going out of business or ceasing to do business shall, within thirty (30) days from the date of ceasing to do business, file a return showing the actual gross volume of business generated during the tax year in which said taxpayer ceased doing business and pay the tax due thereon at the time of filing the tax return. In the event that any tax has been paid upon estimated Gross Receipts, the taxpayer shall be entitled to a refund of any excess tax paid in the tax year for which business was terminated.

**ARTICLE IV  
ACCOUNTING, BOOKS, AND RECORDS**

**Section 400. Accounting Methods and Periods.**

**Cash or Accrual Basis.** The tax return may be filed on a cash basis or on an accrual basis, but the return must be prepared in accordance with the method of accounting regularly employed in keeping the books of the taxpayer.

**Section 401. Records to be kept.**

Every taxpayer is required to keep such accounts and records as will enable the filing of true and accurate declarations and returns. Such accounts and records shall be sufficiently complete to enable the York Area Tax Bureau or its designees to verify the accuracy of declarations and/or returns filed. Accounts and records are to be preserved for **NOT LESS THAN SIX (6) YEARS.**

**ARTICLE V  
ADMINISTRATION AND ENFORCEMENT**

**Section 500. Collection and Receipt of Tax and License Fee.**

The York Area Tax Bureau is authorized to collect and receive taxes, license fees, penalties, and interest on behalf of the City of York. Unless otherwise specified by the taxpayer, all voluntary payments shall be applied against amounts owed as follows: tax, license fee, penalty, and interest.

**Section 501. Records of Receipts.**

The York Area Tax Bureau is authorized and required to keep a record showing the amount received by the City of York from each taxpayer and the date of such collection and receipt.

**Section 502. Disclosure Statement of Taxpayer's Rights and Obligations.**

The York Area Tax Bureau shall notify any taxpayer contacted of his/her rights regarding an assessment, audit, determination, review, refund, appeal or collection of tax as follows: You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes by contacting the York Area Tax Bureau weekdays between the hours of 8:00 AM and 4:00 PM. @ 717 854-8084. The Web Site is [www.yatb.com](http://www.yatb.com)

The Disclosure Statement, attached hereto as Addendum "B", is available to taxpayers upon request at no charge by calling 717 854 8084 between the hours of 8:00am and 4:00pm, weekdays.

**Section 503. Verification of Records, Audits, Response Periods and Prior Year Returns.**

The York Area Tax Bureau, or agents of the Tax Bureau designated in writing, are authorized to examine the books, papers, and records of any person or business entity whom the Tax Bureau Administrator reasonably believes has engaged in taxable business activity within the City of York in order to verify the accuracy of any return made or, if no return has been filed, to arrive at a reasonable assessment of tax, interest, penalty, and fine due.

**A. Cost of audits.** In the event the City of York or the York Area Tax Bureau retains the services of tax auditing professionals to verify the accuracy of returns filed or, if no return has been filed, to arrive at a reasonable assessment of tax, interest, penalty, and fine due, any cost to the City of York or to the York Area Tax Bureau to conduct such an audit shall be assessed against the Taxpayer if any amount is found to be due and owing to the City of York.

**B. Issuance of subpoenas to compel attendance and production of records.** The Mayor of the City of York, through the assistance of the City of York Solicitor, shall have the power and is authorized to (1) issue subpoenas to compel the attendance of persons deemed by the City of York Business to be necessary to examine as witnesses, and (2) compel the production of books, records, and papers relating to any person or business entity under examination. The documents shall be delivered to the York Area Tax Bureau.

**C. Minimum time periods for taxpayer response.** Taxpayers shall have at least thirty (30) calendar days from the mailing date to respond with requests for information by the York Area Tax Bureau. The York Area Tax Bureau may notify any taxpayer from whom the information is initially requested of the procedures to obtain an extension of time in which to respond, and shall grant reasonable extensions of time in which to respond upon application for good cause. No action shall be

taken against a taxpayer for the tax year in question until the expiration of the response period, including extensions.

**D. Inquiry as to prior year returns.** Except as provided below, an *initial* inquiry regarding a taxpayer's compliance with the Tax may include taxes required to be paid or tax returns required to be filed no more than three (3) years prior to the mailing date of the notice of such inquiry. If, after the initial request, the York Area Tax Bureau (or designee) 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, *subsequent* requests for tax returns or supporting information may be made. This subsection shall not apply if the York Area Tax Bureau has sufficient evidence to support its belief that the taxpayer has failed to file a required return or pay an eligible tax which was due more than three (3) years prior to the date of the initial notice.

#### **Section 504. Procedures for the Conduct of Taxpayer Audit.**

The following procedures shall be followed during the conduct of an audit or examination of a taxpayer's books and records:

**A. Notice of Audit.** The taxpayer shall be notified in writing of a scheduled audit at least thirty (30) days in advance. The notice of audit shall contain the following information:

1. The reason for the audit;
2. The tax years subject to audit;
3. The date, place and time for the audit to be conducted;
4. A description of the information, books and records to be produced;
5. A copy of the York Area Tax Bureau's Disclosure Statement information.

**B. Rescheduling audit.** The taxpayer may request that the audit be rescheduled, provided that it is rescheduled within a reasonable time not to exceed sixty (60) days, and that the request is accepted by the York Area Tax Bureau.

**C. Representation at audit.** The taxpayer may have a representative present during the audit.

**D. Audit results.** In the event a Notice of Tax Liability (Section 505.A.1) is issued as a result of an audit, the Taxpayer shall be provided with a copy of the auditor's report of findings and conclusions, including the calculation of any tax, interest and/or penalty found to be due.

#### **Section 505. Examination of Return, Notice of Tax Liability.**

**A. Examination of Return.** The York Area Tax Bureau shall examine every return as soon after filing as is practical to determine the correct amount of tax.

1. **Notice of Tax Liability for underpayment.** If the York Area Tax Bureau finds that the amount of tax shown on a return is less than the correct amount, the York Area Tax Bureau shall notify the taxpayer in writing of the amount of



the underpayment (deficiency) assessed. A Notice of Tax Liability shall be in writing and shall include:

- (a) The tax period or periods for which the underpayment is asserted.
- (b) The amount of the underpayment detailed by tax period.
- (c) The legal basis upon which the York Area Tax Bureau has relied to determine that an underpayment exists.
- (d) An itemization of the revisions made by the York Area Tax Bureau to a return or report filed by the taxpayer that results in the determination that an underpayment exists.

2. **Notice of Overpayment.** If the York Area Tax Bureau finds that the tax that has been paid by the taxpayer is more than the correct amount, the York Area Tax Bureau shall credit the overpayment against any taxes owed by the taxpayer to the City of York and shall refund the difference to the taxpayer. Written notice of such action by the York Area Tax Bureau may be provided to the taxpayer.

**B. No Return Filed.** If the taxpayer fails to file any return of tax required to be filed, the York Area Tax Bureau may estimate from any available information the taxpayer's gross receipts and the tax thereon and notify the taxpayer in writing of the amount assessed against the taxpayer as a deficiency.

#### **Section 506. Petition for Reconsideration of Tax Liability.**

**Within thirty (30) days** of the date of the Notice of Tax Liability, the taxpayer may file a Petition for the Reconsideration of Tax Liability setting forth the grounds upon which the petition for reconsideration is requested. Petitions for Reconsideration of the Tax Liability shall be filed with the York Area Tax Bureau for submission to the License Tax Officer for hearing and determination.

#### **Section 507. Refund of Overpayments, Interest on Overpayments.**

**A. Taxpayer Request for Refund of Overpayments.** Any taxpayer who has made an overpayment of tax to the York Area Tax Bureau may file a written request with the Bureau for a refund or credit. A request for a refund shall be made within three (3) years of the due date for filing the tax return, or one year after actual payment of the tax, whichever is later. If no return or report is required, the request shall be made within three (3) years after the due date for payment of the tax or within one year after actual payment of the tax, whichever is later.

1. **Overpayment on tax return.** For purposes of this section, a tax return filed by the taxpayer with the City of York showing an overpayment of tax shall be deemed to be a written request for a cash refund unless otherwise indicated on the tax return.
2. **Refund request not a petition for appeal.** A request for refund under this section shall not be considered a petition for appeal to the License Tax Officer

and shall not preclude the taxpayer from submitting a petition for appeal (see Section 514).

3. **Refund after Notice of Tax Liability.** For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for refund shall be filed with the York Area Tax Bureau within one year of the date of payment.

**B. Interest on overpayments.** All overpayments of tax due to the City of York shall bear simple interest from the date of overpayment until the date of resolution.

1. **Rate of interest.** Interest on overpayments shall be allowed and paid at the same rate as the Commonwealth 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.
2. **75 Days before interest accrues.** No interest shall be allowed if an overpayment is refunded (or applied against any other tax, interest, or penalty due the City of York) within seventy-five (75) days after the last prescribed date for filing the tax return or report of liability or within 75 days after the date the tax return or report of liability due is filed, whichever is later.
3. **No interest on Overpayments of Interest and Penalty.** Overpayments of interest and penalty shall not bear interest.

**C. Acceptance of refund check.** The taxpayer's acceptance of the Bureau's refund check shall not prejudice any right of the taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check by the Bureau shall be deemed to be acceptance of the check by the taxpayer.

#### **Section 508. Abatement of Certain Interest and Penalty.**

**A. Errors and Delays.** In the case of any underpayment, the York Area Tax Bureau may abate all or any part of interest and penalty for any period for the following:

1. Any underpayment of tax finally determined to be attributable in whole or in part to any error or delay by the City of York or the York Area Tax Bureau in the performance of a ministerial act; provided, however, that no significant aspect of the error or delay is caused by the taxpayer after the Bureau or the City has contacted the taxpayer in writing with respect to the underpayment of tax finally determined to be due or payable.
2. Any payment of tax to the extent that any error or delay in the payment is attributable to an officer, employee or agent of the City of York or the York Area Tax Bureau being erroneous or dilatory in the performance of a ministerial act. The City of York Solicitor or the York Area Tax Bureau shall determine what constitutes timely performance of ministerial acts.

**B. Erroneous written advice by the City of York or the York Area Tax Bureau.**

The York Area Tax Bureau shall abate any portion of any penalty or interest attributable to erroneous advice furnished to the taxpayer in writing by an officer, employee or agent of the City of York, or the York Area Tax Bureau, acting in their 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 additional tax, penalty and interest did not result from the failure of the taxpayer to provide adequate or accurate information.

**Section 509. Installment Agreements.**

The York Area Tax Bureau may enter into written “payment agreement contracts” with any taxpayer under which the taxpayer is allowed to satisfy liability for any eligible tax in installment payments if the York Area Tax Bureau determines that the agreement will facilitate collection. The following terms and conditions shall apply to installment plans:

- A. The taxpayer must file an annual tax return for the current tax year and any delinquent tax years to be covered under the installment plan. These annual tax returns must include a copy of the taxpayer’s Federal Tax Return and all supporting documentation as verification that all taxable income has been reported. In cases where a Federal Tax Return cannot be produced, the taxpayer must complete a Federal Form 4506 “Request for Copies of Tax Return” naming the York Area Tax Bureau as recipient of the requested copy. The costs to procure the Federal Tax Return and related information shall be the sole responsibility of the taxpayer.
- B. Installment plans will not be approved for tax amounts less than \$100.00.
- C. Installment Plans will not be approved for more than six months. Payment amounts will be calculated by dividing the total tax liability by six and adding the applicable penalty, interest, fines, and costs to each payment.
- D. Taxpayers will be required to verify that their current year’s tax liability has been satisfied to date either by proof of employer withholding or by direct payment from the taxpayer.
- E. Installment Plans will be granted only one time to any taxpayer.
- F. Installment Plans will be revoked and immediate civil action or garnishment of wages for collection of the tax due will be initiated if any of the aforementioned terms and conditions are not met.
- G. The York Area Tax Bureau may terminate any prior agreement if:
  - (1) The information the taxpayer provided to the York Area Tax Bureau prior to

the date of the agreement was inaccurate or incomplete, or

- (2) If the York Area Tax Bureau believes that collection of any eligible tax under the Installment Plan is in jeopardy.
- H.** If the York Area Tax Bureau finds that the financial condition of the taxpayer has significantly changed, the York Area Tax Bureau may alter, modify or terminate the agreement, but only if:
- (1) Notice of the York Area Tax Bureau's finding is provided to the taxpayer no later than 30 days prior to the date of such action; and
  - (2) The notice contains the reasons why the York Area Tax Bureau believes a change has occurred.
- I.** The York Area Tax Bureau may alter, modify or terminate an Installment Plan agreement if the taxpayer fails to do any of the following:
- (1) Pay any installment at the time the installment is due.
  - (2) Pay any other tax liability at the time the liability is due.
  - (3) Provide a financial condition update as requested by the Tax Bureau.
- J.** Nothing in this subsection shall prevent a taxpayer from pre-paying in whole or in part any eligible tax under any installment agreement with the Tax Bureau.

**Section 510. Payment.**

- A.** The business privilege and mercantile tax levied pursuant to this article shall be due and payable without further notice or demand on the date which the taxpayer is required to file a declaration of estimated tax.
- B.** All taxes, interest and penalties imposed under the provisions of this article shall be payable to the License Tax Officer who, upon payment of the tax imposed, together with any interest and penalties due thereon, shall give to the person paying the same a receipts therefor. All tax shall always be deemed due and payable not later than at the time of filing the return.

**Section 511. Payment under Protest.**

The York Area Tax Bureau Administrator is authorized to accept "payment under protest" of the amount of tax in order to avoid liability for additional penalty, interest and fines. Notice of Payments made under protest will be forwarded to the City of York Business Administrator and/or Solicitor for information purposes. The payment will be deposited and distributed to the City of York along with the next tax remittance distribution. If it is thereafter judicially determined that the City has been overpaid, the amount if the overpayment shall be refunded to the taxpayer.

**Section 512. Violations and Penalties.**

Failure to comply with the provisions of the City of York Codified Ordinance, Article 343 (Business Privilege and Mercantile Tax Ordinance) may result in both civil and criminal sanctions, including:

- A. **Administrative Penalty and Interest.** If a person fails to pay the tax when due, a penalty of ten percent (10 %) of the tax due and unpaid shall be added thereto plus additional penalty and interest of one half percent (1/2%) per month each, for each month the tax, or part of the tax, remains unpaid. This 10% administrative penalty shall be in addition to any other penalty imposed by this article.
  
- B. **Revocation of License.** The Business Privilege and Mercantile Tax License of any person or business entity who fails to file any declaration of estimated tax or any tax return required under Article 343 of the Codified Ordinances of the City of York, or who files a false declaration of estimated tax or a false tax return, may, after notice and hearing, be revoked.
  
- C. **Issuance of Non-Traffic Citation.** The York Area Tax Bureau is hereby authorized to file a Non-Traffic Citation against any taxpayer who violates any provision of Article 343 of the Codified Ordinances of the City of York. Each twenty-four (24) hour period during which such violation continues shall be considered a separate and distinct offense punishable as outlined in the Business Privilege and Mercantile Tax Ordinance. Such violations include, but are not limited to:
  - 1. Failure to obtain a Business Privilege and Mercantile Tax License.
  - 2. Failure to make and file a required report or return.
  - 3. Failure to remit any tax due.
  - 4. Knowingly making false or fraudulent report or return.

**Section 513. Confidential Nature of Tax Information.**

Any information gained by the York Area Tax Bureau as a result of any declaration, audit, return, report, investigation, hearing or verification shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for the Tax Bureau to:

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

**Section 514. Dishonored Checks.**

A \$20.00 charge will be levied by the York Area Tax Bureau each time a check is returned

from the bank unpaid. Checks issued in violation of the Pennsylvania Crimes Code will be referred to appropriate authorities for possible criminal prosecution.

**Section 515. License Tax Officer and Treasurer Duties and Records.**

- A.** The License Tax Officer is charged with the duties of receiving the taxes, fines and penalties imposed by this article.
- B.** The Treasurer, in conjunction with the Business Administrator, is charged with overview and enforcement of this Article.
- C.** The License Tax Officer and all duly appointed deputies are hereby empowered to promulgate rules and regulations relating to the enforcement of this article, including provisions for the examination and correction on declarations and returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred, and charged with enforcing the provisions of this article and any rules and/or regulations promulgated pursuant hereto.
- D.** The taxpayer shall maintain such records and books of account as shall enable him to make a true and accurate declaration and return in accordance with the provisions of the article. Such accounts and records shall disclose in detail the gross receipts and other data pertaining to the taxpayer’s gross volume of business, and shall be sufficiently complete to enable a License Tax Officer or his/her deputies to verify all transactions. The License Tax Officer or the deputies are hereby authorized to examine the books, papers and records of any person or persons subject to or supposed to be subject to the tax imposed by this article, in order to verify the accuracy of the declaration or return made, or if no declaration or return was made, ascertain the tax due.

**Section 516. Administrative Appeals.**

- A.** The York Area Tax Bureau encourages any taxpayer or employer desiring a specific ruling concerning the applicable Ordinances, Resolutions or these Rules and Regulations to submit all pertinent facts in writing to the License Tax Officer who shall issue a written ruling, or seek a legal opinion from the City of York Solicitor.
- B.** The City of York and the York Area Tax Bureau have established an administrative process to receive and make determinations on petitions from taxpayers relating to the assessment, determination and refund of eligible taxes as required by ACT 50 of 1998. The License Tax Officer shall rule on all petitions submitted based on the regulations set forth governing the applicable practice and procedures of the Administrative Appeal Process.
- C.** Any person aggrieved of any decision issued by the License Tax Officer shall then have the right to appeal to the Court of Common Pleas.

**D.** The petition shall be double-spaced and typed or legibly handwritten on plain paper. The petition should contain a brief summary of the action and the “legal basis” that precipitated the filing for re-determination, along with any pertinent information (copies of tax returns, supporting information, tax schedules, expense records, etc.).

**E.** The petition shall be mailed via First Class Mail, or delivered in person to the License Tax Officer c/o the York Area Tax Bureau. Hand delivered petitions will be received by the Tax Bureau and will be considered filed as of the date received. Petitions received by mail will be considered filed as of the date of the United States Postal Service postmark stamped on the envelope.

**F.** Petitions will be photocopied by the Tax Bureau and immediately forwarded to the License Tax Officer. Within 10 work days of the petition filing date, the Tax Bureau will submit its position and all relevant facts pertaining to the action that precipitated the petition to the License Tax Officer.

**G.** Within 60 days of the petition’s filing date a “Final Decision” must be issued by the License Tax Officer. Failure to issue a “Final Decision” within 60 days will result in the petition being deemed approved.

### **Section 517. Judicial Appeal.**

Any person aggrieved by a decision of the License Tax Officer, who has a direct interest in the decision shall have the right to appeal to the court vested with the jurisdiction of local tax appeals by or pursuant to 42 Pa.C.S. § 5571(b).

### **Section 518. Legal Proceedings Authorized.**

The License Tax Officer or the duly appointed staff of the York Area Tax Bureau shall have the power in the name of the City to institute proceedings against any and all persons who violate the provisions of this article or to take any other action provided by law.

### **Section 519. Savings and Severability Clauses.**

**A.** Nothing contained in this article shall be construed to empower the City to levy and collect the taxes hereby imposed on any person, or any business, or any portion of any business not within the taxing power of the City under the Constitution of the United States and the laws of the Constitution of the Commonwealth of Pennsylvania.

**B.** The provisions of this article are severable, and if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the intention of the Council that this article would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

**Section 520. Enforcement.**

It shall be the duty of the Business Administrator, the License Tax Officer or any duly appointed designee to ensure the proper enforcement of the provisions of these Rules and Regulations, and any such officer shall have the power, in the name of the City, to institute proceedings against any or all persons for the collection of any taxes or license fees for violation of any of the provisions of these Rules and Regulations. If such suits are by process of summary conviction, in addition to the requirements for normal service and notice and in accordance with the police powers authorized by Rule 51 of the Pennsylvania Rules of Criminal Procedure, the Treasurer, the Business Administrator, License Tax Officer or any duly appointed designee acting within the scope of his employment may issue an immediate citation for violation of those sections for which summary criminal proceedings are authorized.

**Section 521. Authority.**

This article was enacted under the authority of the Local Tax Enabling Act of December 31, 1965, P.L. 1257 (53 P.S. 6901 et seq.), and the Third Class City Code, Act of June 23, 1931, P.L. 932, as amended and reenacted by Act of August 24, 1953, P.L. 1337 (53 P.S. 37403 (60)).

**END.**

**APPROVED BY THE MAYOR AND BUSINESS ADMINISTRATOR UNDER §343.07(b) OF THE CODIFIED ORDINANCES.**

\_\_\_\_\_  
Business Administrator  
January 20, 2004

\_\_\_\_\_  
Mayor  
January 20, 2004

**ADDENDUM “A”**  
Codified Ordinances, Article 343 “The Business Privilege and Mercantile Tax Ordinance

**ADDENDUM “B”**  
York Area Tax Bureau Disclosure Statement of Bureau’s and Taxpayer’s Rights and Responsibilities

**ADDENDUM “A”**  
**ARTICLE 343**  
**Business Privilege and Mercantile Tax**

343.01 Definitions.



- 343.02 Levy; rate; exemptions; business volume.
- 343.03 Returns.
- 343.04 Payment.
- 343.05 Delinquent interest and penalty.
- 343.06 Business privilege and mercantile license.
- 343.07 License Tax Officer and Treasurer Duties; records; appeals.
- 343.08 Confidentiality.
- 343.09 Legal proceedings authorized.
- 343.10 Savings and severability clauses.
- 343.11 Enforcement.
- 343.12 Authority.
- 343.99 Penalty.

#### CROSS REFERENCES

- Power to tax - see Act 511 (53 P.S. 6901 et seq.)
- Itinerant vendors - see BUS. REG. & TAX. Art. 329
- Peddlers and solicitors - see BUS. REG. & TAX. Art. 333
- Occupation Privilege Tax - see BUS. REG. & TAX. Art. 345

#### 343.01 DEFINITIONS.

The following words and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "Business" means any activity carried on or exercised for gain or profit in the City, including but not limited to, the sale of merchandise or other tangible personality or the performance of services. As to those taxpayers having a place of business within the City, "business" includes all activities carried on within the City and those carried on outside the City attributable to the place of business within the City. (Ord. 28-1993 §1. Passed 11-3-93.)
- (b) "City" means the City of York.
- (c) "License year" means the calendar year beginning January 1, 1987 and each calendar year thereafter.
- (d) "License Tax Officer" means the person authorized and empowered by Council to collect the taxes imposed hereby and to enforce the provisions of this article.
- (e) "Person" means any individual, partnership, limited partnership, association, firm or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (f) "Gross volume of business" means the money or money's worth received by any vendor in, or by reason of, the sale of goods, wares, merchandise, or services rendered.
- (g) "Service" means any act or instance of helping or benefiting another for consideration.
- (h) "Taxpayer" means a person subject to the payment of the tax imposed by this article.
- (i) "Tax year" means the calendar year beginning January 1, 1987, and each calendar year thereafter.
- (j) "Treasurer" means the Treasurer of the City of York.  
(Ord. 21-1987 §2. Passed 7-21-87.)

#### 343.02 LEVY; RATE; EXEMPTIONS; BUSINESS VOLUME.

There is hereby levied for the tax year beginning January 1, 1997, a tax for general revenue purposes on the privilege of doing business as herein defined in the City.  
(Ord. 14-1996. Passed 12-17-96.)

- (a) Rate and Basis of Tax. The rate of tax on every dollar of the whole or gross volume of business transacted within the territorial limits of the City shall be calculated as follows: (Ord. 21-1987 §2. Passed 7-21-87.)
- (1) Business Privilege Tax. On receipts attributable to the performance of service, including any labor and materials entering into or becoming component parts of the service performed, the rate imposed shall be three and one-half mills or three dollars and fifty cents (\$3.50) per one thousand dollars (\$1,000) of gross volume of business. Collections of past due taxes, penalties and interest shall not be construed to levy an increase on the annual rate of the tax. (Ord. 14-1996. Passed 12-17-96.)
  - (2) Wholesale mercantile rate. On receipts attributable to wholesale sales of merchandise, the rate imposed shall be one mill or one dollar (\$1.00) per thousand dollars (\$1,000) of gross volume of business. Collections of past due taxes, penalties and interest shall not be construed to levy an increase on the annual rate of the tax. (Ord. 21-1987 §2. Passed 7-21-87.)
  - (3) Retail mercantile rate. On receipts attributable to retail sales of merchandise, the rate imposed shall be one and one-half mills or one dollar and fifty cents (\$1.50) per thousand dollars (\$1,000) of gross volume of business. Collections of past due taxes, penalties and interest shall not be construed to levy an increase on the annual rate of the tax. (Ord. 27-1987 §1. Passed 10-6-87.)
- (b) Computation of Volume of Business.
- (1) For businesses that started in the current "tax year", the tax shall be due on April 15 of the current year and shall be based on the "gross volume of business" transacted in the first full month of operation multiplied by the number of full months that business shall be in operation for the year. If the business starts operations after April 15 of the current "tax year" that tax shall be computed in the same manner but shall not be due until the fifteenth day of the month following the first full month of operation. At the end of the year every business that started that year shall reconcile the estimated tax payment to the figure they reported on the gross receipts or sales line of their federal tax return. If the amount of the tax paid is less than the figure reported on the federal tax return, the business shall remit payment to the City within thirty days of filing their return. If the estimated amount paid is more than the figure reported on the federal tax return, the business owner shall contact the City for an adjustment.
  - (2) For a business that started operations in the year preceding the current "tax year" the business shall pay its tax in the current year based on the gross receipts sales line of their federal tax return for the preceding year pro-rated to twelve months. The tax shall be paid in full on or before April 15 of the current "tax year".
  - (3) For a business that has been in operation one full year or more prior to the current "tax year", the tax shall be computed based on the gross volume of business transacted in the preceding "tax year" and shall be due in full on or before April 15 of the current year. (Ord. 1-1993 §1. Passed 1-19-93.)
  - (4) Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal, or itinerant by nature, shall compute his gross amount of business within the City from his actual gross receipts for the license year.
- (c) Persons, Business and Receipts Exempted from the Payment of Tax.

- (1) Persons and businesses. Persons employed for a wage or salary, nonprofit corporations or associations organized for religious, charitable or educational purposes, agencies of the government of the United States or of the Commonwealth of Pennsylvania and any political subdivision, or of any authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this article.
  - (2) Court exemptions. No such tax shall be assessed and collected on a privilege, transaction, subject or occupation which is subject to a revenue producing State tax or license fee, and which tax or license fee has been held by the courts of Pennsylvania to be the basis for exemption from the imposition of a business privilege or mercantile tax by a municipality.
  - (3) Utilities. No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission, or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.
  - (4) State tax on tangible property. No such tax shall be assessed and collected on the privilege of employing such tangible property as is subject to a State tax except on sales of admission to places of amusement or on sales of other transfers of title or possession of property.
  - (5) Landlords and rental property. No such tax shall be assessed and collected on the gross receipts received as rent by a landlord or his agent.
  - (6) Production and manufacture. No such tax shall be assessed and collected on goods, articles and products or on by-products of manufacture, or on minerals, timber, natural resources and farm products, manufactured, produced or grown in the City, or on the preparation or processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading or dumping or storage of such goods, articles or products of by-products.
  - (7) Gross receipts tax or fee. No such tax or fee shall be assessed or collected on any receipts which are subject to a gross receipts tax or fee under any other ordinance of the City.
- (d) Determination of Gross or Whole Volume of Business. Gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made and/or services rendered, subject only to the following allowable deductions and exemptions:
- (1) The dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance;
  - (2) Refunds, credits or allowances given by a taxpayer to a purchaser in account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned;
  - (3) Any commissions paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker; and
  - (4) Bad debts, where the deduction is also taken in the same year for Federal income taxation purposes.

(Ord. 21-1987 §2. Passed 7-21-87.)

- (e) Partial Exemptions. Where gross or whole volume of business in its entirety cannot be subjected to the tax imposed by this article by reason of the provisions of the Constitution of the United States, or any other provisions of law, including, but not limited to, Court decisions from Pennsylvania Courts of competent jurisdiction, only that part of the gross or whole volume of business which is properly attributable and allowable to doing business in the City shall be taxed hereunder. (Ord. 7-1993 §1. Passed 3-16-93.)
- (f) Rate When Same Tax is Imposed by Two Taxing Bodies. If any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act, 1965, December 31, P.L. 1257 (53 P.S. 6901 et seq.), to the City and one or more political subdivisions of the State, then and in that event, the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but, in no event shall the combined taxes of both subdivisions exceed a maximum rate of tax as fixed by such Enabling Act permitting the imposition of such taxes.
- (g) Records. The exempt or partially exempt taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep the books and records of his business so as to show clearly, accurately and separately the amount of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided. (Ord. 21-1987 §2. Passed 7-21-87.)

#### 343.03 RETURNS.

- (a) Every return shall be made upon a form furnished by the License Tax Officer. Every person making a return shall certify the correctness thereof by affidavit.
- (b) The fact that an individual's name is signed on the return shall be prima-facie evidence that such individual is authorized to sign the return on behalf of the taxpayer. (Ord. 21-1987 §2. Passed 7-21-87.)
- (c) Every person subject to the tax imposed by this article who commences business prior to the beginning of any tax year shall file a return with the License Tax Officer, setting forth his name, his business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts as prescribed in Section 343.02 and the amount of the tax due by the 15th of April of every tax year.
- (d) Every person subject to the tax imposed by this article who commences business subsequent to the beginning of any tax year, shall within forty days from the date of commencing such business, file a return with the License Tax Officer setting forth his name, his business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts as prescribed in Section 343.02 and the amount of the tax due.
- (e) Every person subject to the tax imposed by this article, who engages in a trade, occupation, business or profession, that is temporary, seasonal or itinerant in nature, shall, within seven days from the date he completes such business, file with the License Tax Officer a return setting forth his name, his business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts for the period he engages in business during the license year and the amount of tax due.
- (f) Any person required to file a return by this article shall attach to such return the Internal Revenue Service Schedule "C", Form 1065, or Form 1120. (Ord. 1-1990 §1. Passed 3-6-90.)

#### 343.04 PAYMENT.

- (a) The business privilege and mercantile tax levied pursuant to this article shall be due and payable without further notice or demand on the date which the taxpayer is required to file a declaration of estimated tax. (Ord. 21-1987 §2. Passed 7-21-87.)

(b) All taxes, interest and penalties imposed under the provisions of this article shall be payable to the License Tax Officer who, upon payment of the tax imposed, together with any interest and penalties due thereon, shall give to the person paying the same a receipt therefor. (Ord. 12-1988 §1. Passed 7-19-88.)

(c) The License Tax Officer is hereby authorized to accept payment under protest of the amount of business privilege and or mercantile tax claimed by the City in any case where the taxpayer disputes the validity or amount of the City's claimed tax. If it is thereafter judicially determined by a court of competent jurisdiction that the City has been overpaid, the amount of the overpayment shall be refunded to the taxpayer. The provisions of this section shall be applicable to cases clearly analogous to those in a case litigated in a court of competent jurisdiction. (Ord. 21-1987 §2. Passed 7-21-87.)

#### 343.05 DELINQUENT INTEREST AND PENALTY.

In the event that any taxpayer is delinquent in filing his return, neglects or refuses to pay any of the tax imposed by this article, interest shall be paid upon the total amount determined by the License Tax Officer to be due from such taxpayer at the rate of one-half of one percent (1/2%) per month or fractional part thereof from the day such tax was due and payable until the day the tax is fully paid. In addition thereto, a penalty in the amount of ten percent (10%) of the amount of the tax determined to be due shall be added thereto and collected by the License Tax Officer. Such penalty shall be in addition to any other penalty imposed by this article. For purposes of this provision, the tax imposed by this article shall be deemed due and payable on April 15 of the license year; or in the case of taxpayers who file returns under Section 343.03(c), such tax shall be deemed due and payable at the time of filing the return. (Ord. 21-1987 §2. Passed 7-21-87.)

#### 343.06 BUSINESS PRIVILEGE AND MERCANTILE LICENSE.

After the effective date of this section, any person desiring to conduct, or to continue to conduct any business, as herein defined, within the City shall file with the License Tax Officer an application for a business privilege and mercantile license. The license issued shall be conspicuously posted in the place of business for which the license is issued. In cases where more than one place of business is conducted, a separate license shall be issued for each place of business. Any taxpayer who is in default in payment due hereunder shall be refused a license until such tax is paid in full. A business privilege and mercantile license, once issued, shall remain valid until the end of the tax year. Such license is not transferable with transfer of ownership of the business. (Ord. 21-1987 §2. Passed 7-21-87.)

#### 343.07 LICENSE TAX OFFICER AND TREASURER DUTIES; RECORDS; APPEALS.

(a) The License Tax Officer is charged with the duties of receiving the taxes, fines and penalties imposed by this article. (Ord. 12-1988 §1. Passed 7-19-88.)

(b) The License Tax Officer and his duly appointed deputies, under the direction of the Business Administrator, are hereby empowered to promulgate rules and regulations relating to the enforcement of this article, including provisions for the examination and correction of declarations and returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred, and charged with enforcing the provisions of this article and any rules and/or regulations promulgated pursuant hereto. (Ord. 7- 1993 §2. Passed 3-16-93.)

(c) The taxpayer shall maintain such records and books of account as shall enable him to make a true and accurate declaration and return in accordance with the provisions of the article. Such accounts and records shall disclose in detail the gross receipts and other data pertaining to the taxpayer's gross volume of business, and shall be sufficiently complete to enable the License Tax Officer or his deputies to verify all transactions. The License Tax Officer or his deputies are hereby authorized to examine the books, papers and records of any person or persons subject to or supposed to be

subject to the tax imposed by this article, in order to verify the accuracy of the declaration or return made, or if no declaration or return was made, ascertain the tax due.

(d) Any person aggrieved by any decision of the License Tax Officer shall have the right to appeal to the Court of Common Pleas.  
(Ord. 21-1987 §2. Passed 7-21-87.)

#### 343.08 CONFIDENTIALITY.

Any information gained by the License Tax Officer or any other official, agent or employee of the City, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this article, shall be confidential, except in accordance with proper judicial order or as otherwise provided by law.

(Ord. 21-1987 §2. Passed 7-21-87.)

#### 343.09 LEGAL PROCEEDINGS AUTHORIZED.

The License Tax Officer or his duly appointed deputies shall have the power in the name of the City to institute proceedings against any and all persons who violate the provisions of this article or to take any other action provided by law. (Ord. 21-1987 §2. Passed 7-21-87.)

#### 343.10 SAVINGS AND SEVERABILITY CLAUSES.

(a) Nothing contained in this article shall be construed to empower the City to levy and collect the taxes hereby imposed on any person, or any business, or any portion of any business not within the taxing power of the City under the Constitution of the United States and the laws of the Constitution of the Commonwealth of Pennsylvania.

(b) If the tax, or any portion thereof, imposed upon any person under the provisions of this article is held by any court of competent power or jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania or any other provision of the law, the decisions of the court shall not affect or impair the right to impose the taxes, or the validity of the taxes so imposed upon other persons as herein provided.

(c) The provisions of this article are severable, and if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the intention of the Council that this article would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.  
(Ord. 21-1987 §2. Passed 7-21-87.)

#### 343.11 ENFORCEMENT.

It shall be the duty of the Business Administrator, the License Tax Officer or any duly appointed designee to ensure the proper enforcement of the provisions of this article, and any such officer shall have the power, in the name of the City, to institute proceedings against any or all persons for the collection of any taxes or license fees or for violation of any of the provisions of this article. If such suits are by process of summary conviction, in addition to the requirements for normal service and notice and in accordance with the police powers authorized by Rule 51 of the Pennsylvania Rules of Criminal Procedure, the Business Administrator, License Tax Officer or any duly appointed designee acting within the scope of his employment may issue an immediate citation for violation of those sections for which summary criminal proceedings are authorized. (Ord. 21-1987 §2. Passed 7-21-87.)

#### 343.12 AUTHORITY.

This article was enacted under the authority of the Local Tax Enabling Act of December 31, 1965, P.L. 1257 (53 P.S. 6901 et seq.), and the Third Class City Code, Act of June 23, 1931, P.L. 932, as amended and reenacted by Act of August 24, 1953, P.L. 1337 (53 P.S. 37403 (60)).  
(Ord. 21-1987 §2. Passed 7-21-87.)

343.99 PENALTY.

Whoever conducts, transacts or engages in any of the businesses subject to the tax imposed by this article, without having first secured a business privilege and mercantile license, or any person who fails to file a declaration of estimated tax or a tax return as required by the provisions of this article, or any person who willfully files a false declaration of estimated tax or a false return, shall upon summary conviction before any District Justice be fined not more than six hundred dollars (\$600.00) for any one offense, recoverable with costs, or imprisoned not more than ninety days, or both. (Ord. 9-1989 §1. Passed 2-7-89.)

Addendum "B"

**YORK AREA TAX BUREAU**

*1415 North Duke Street P.O. Box 15627*

*York, Pennsylvania 17405-0156*

*Phone (717)845-1584 Fax (717)854-6376*

Web site: [www.YATB.com](http://www.YATB.com)

E-mail: [info@yatb.com](mailto:info@yatb.com)

**BUREAU POLICY REGARDING  
LOCAL TAXPAYERS BILL OF RIGHTS**

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**Local Taxpayers Bill of Rights provides for and sets forth: (1) taxpayer rights and the obligation of the Bureau during an audit or an administrative review of the records of the taxpayer; (2) the administrative and judicial procedures by which a taxpayer may appeal or seek review of an adverse decision of the Bureau; (3) the procedure for filing and processing refund claims and complaints; (4) the enforcement procedures.**

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**Bureau requests requirements:**

- (1) Taxpayers have at least 30 days from the mailing date to respond to requests for information. Additional extension time must be granted upon application for good cause.
- (2) The Bureau must inform the taxpayer how to obtain an extension in its initial requests.

(3) The Bureau shall take no lawful action against a taxpayer for the tax year in question until the expiration of the applicable response period and extensions.

**Bureau requests for prior year tax returns:**

(1) Initial inquiries by the Bureau regarding a taxpayer's compliance are limited to no more than 3 years prior to the notice mailing date.

(2) Subsequent requests are permitted if after the initial request it is determined that the taxpayer failed to file a tax return or underreported income or failed to pay a tax for one or more of the tax periods covered by the initial request.

(3) If the Bureau has sufficient information which indicated a taxpayer failed to file a return or pay an eligible tax which was due more than 3 years prior to the date of the notice, the requirements in (1) and (2) above do not apply.

(4) This Bureau may require a taxpayer to provide copies of the taxpayer's federal tax returns if the Bureau can demonstrate that the federal tax information is reasonably necessary and the information is not available elsewhere, or from the Pa. Dept. of Revenue.

**Refunds:**

(1) If a taxpayer determines that they have paid a tax to this Bureau to which the taxpayer is not subject, a request for refund of overpaid tax must be filed on a tax return form approved by this Bureau.

(2) Requests for refunds of tax paid must be filed in writing within 3 years of the due date or 1 year after actual payment of the eligible local tax, whichever is later. If no tax return was due the request must be made within 3 years after the due date for payment of the eligible tax or within 1 year after actual payment of the tax, whichever is later. But not later than ninety days prior to the last date this Bureau is the collector of the tax for which the refund is being requested.

(3) A local tax return filed, and showing an overpayment, shall be deemed to be a written request for a cash refund unless otherwise indicated on the tax return.

(4) A refund request shall not be considered as an administrative appeal and shall not preclude a taxpayer from submitting a petition with the local tax officer/Bureau.

(5) For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written refund request must be filed within 1 year with the Bureau.

**Interest on overpayment:**

(1) Interest on overpayments shall be allowed and paid at the same rate as the commonwealth is required to pay pursuant to section 806.1 of the Fiscal Code (P.L. 343, Act 176) 1929; 72P.S.



806.1.

(2) All tax overpayments due this Bureau on behalf of a local taxing authority, including tax on real property, shall bear simple interest from the date of overpayment until the date of resolution.

**Interest on overpayments - exceptions:**

(1) No interest is allowed if an overpayment is refunded or applied against any other tax, interest, or penalty due the Bureau on behalf of a local taxing authority within 75 days after the last date for filing a return or within 75 days after the report of liability due is filed.

(2) Interest and penalty overpayments shall not bear any interest.

(3) A taxpayer's acceptance of a refund check shall not prejudice the taxpayer's right to claim any additional overpayment, plus interest. Tender of a refund check by the Bureau shall be deemed to be acceptance of the check by the taxpayer.

(4) 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, without regard to any extension of time for filing.

(5) Estimated tax overpaid, shall be deemed to have been paid on the last day for filing for the tax period without regard for an extension.

(6) Overpayment made before the prescribed due date shall be deemed to have been paid on the due date.

(7) Any amount claimed to be overpaid with respect to an administrative review or appellate procedure being initiated, shall be deemed to have been overpaid 60 days following the date of initiation of the review or procedure.

(8) Any amount shown not to be due on an amended earned income/net profits tax return shall be deemed to have been overpaid 60 days after filing the amended return.

(9) The date of resolution for overpayment refunds or credits is as follows:

(a) For a cash refund, a date preceding the date of the Bureau's refund check by not more than 30 days.

(b) For a credit of an overpayment, the date of the Bureau's notice to the taxpayer of the credit determination, or;

(c) The due date for payment of the tax against which the credit is applied, whichever occurs first.

(d) For a cash refund of a previously determined credit, interest shall be paid on the credit amount from a date 90 days after filing the request to convert the credit to a cash refund, to a date preceding the date of the refund check by not more than 30 days whether or not the refund check is accepted by the taxpayer after tender.

**Bureau notice of basis of underpayment:**

When the Bureau notifies a taxpayer in writing of the basis for an underpayment, the notice must contain:

- (1) Applicable tax periods.
- (2) Tax underpayment amount detailed by tax period.
- (3) The legal basis upon which the Bureau has relied to determine that an underpayment exists.
- (4) An itemization of revisions made to a return by the Bureau.

**Abatement of interest and penalty:**

In the case of any underpayment, the local taxing authority or this Bureau may abate all or part of interest for the following:

- (1) Any underpayment or tax due attributed to error or delay by this Bureau, but only if no significant aspect of the error or delay can be attributed to the taxpayer, after notification to the taxpayer in writing.
- (2) Any payment of a tax due to error or delay attributed to a ministerial act of an officer, employee, or agent of the local taxing authority or this Bureau, which shall determine what constitutes timely performance.

Abatement due to erroneous written advice by Bureau personnel.

The Bureau shall abate any portion of any penalty or excess interest attributed to erroneous advice to the taxpayer in writing by an officer, employee or agent of the Bureau acting in any official capacity:

- (1) If the written advice was reasonably relied upon by the taxpayer, and
- (2) If any portion of interest, tax or penalty did not result from failure by taxpayer to provide adequate or accurate information.
- (3) The local taxing authority and this Bureau are not required to provide written advice to taxpayers.

**Voluntary payment application priority required as follows:**

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

**Installment Agreements:**

- (1) Are authorized, if the agreement will facilitate collection.
- (2) Agreements remain in effect for the full term.
- (3) Of course, the prepayment of tax is also permitted when an agreement has been made.
- (4) Bureau can terminate the agreement, if:
  - (a) Taxpayer provided inaccurate or incomplete data.
  - (b) Bureau believes collection of tax is in jeopardy.
  - (c) If taxpayer's financial condition significantly changes, the agreement may be modified, altered, or terminated if the notice of the Bureau's finding is provided at least 30 days prior to the date of action and notice contains the reasons.
  - (d) If taxpayer fails to pay any installment when due, or fails to pay any other tax when due, or provide a financial condition update as requested by the Bureau.

**Administrative appeals:**

The Bureau has established and provides for an administrative process to receive and produce a determination on petitions from taxpayers pertaining to the assessment, determination, or refund of an eligible tax. The Bureau's administrative process consists of the provision for a hearing and decision by a hearing officer who shall be the Bureau Administrator, or his authorized representative who is appointed by the Bureau's Board of Directors, who shall determine the qualifications and compensation of the hearing officer.

In the case of "an assessment and collection of underpayment of the Tax," the Bureau's provisions within Section 16 of the Bureau's Rules and Regulations, shall be the applicable process to be utilized to resolve the appeal.

**Petitions:**

Timely petition filing is determined by the postmark by the United States postal service on or before the

deadline for filing a petition. Deadlines are as follows:

(1) Refund petitions within 3 years after due date for filing the report as extended or 1 year after actual payment of tax, whichever is later.

(2) Petitions for reassessment of an eligible tax shall be filed within 90 days of the assessment notice date, and the Bureau shall adopt regulations specifying the form and content of petitions, including the process and deadlines. These regulations shall not be governed by 2 PA.C.S. Chapter 5 sub.ch. B (relating to judicial review of local agencies) as the Bureau has adopted regulations governing practice and procedure under Act 50 of 1998.

**Decisions:**

Decisions on petitions submitted under Act 50 of 1998 shall be issued within 60 days of the date a complete petition is received. Failure to act within 60 days shall result in the petition being deemed approved.

**Appeals:**

Appeals of decisions by any person who has a direct interest in the decision may be filed with the court vested with jurisdiction of local tax appeals pursuant to 42 PA. C.S. (relating to judiciary and judicial procedure).

**Taxpayer rights if you are audited:**

Upon examining a taxpayer's records at the Bureau, the applicable Bureau employee will:

- (1) Provide the taxpayer with a written explanation of this Bureau's audit process as it relates to that taxpayer, and his or her rights during the audit process.
- (2) Prepare a written explanation of the assessment of any tax liability determined during the audit.
- (3) Explain the taxpayer's right to appeal the assessment of any tax liability determined during the audit.
- (4) Conduct a post audit conference at which a Bureau employee or representative will explain the audit findings and make recommendations on how to correct areas of noncompliance.
- (5) Process the audit timely upon receipt of all the applicable information.

The Bureau may require a taxpayer to provide exact copies or certified copies of the person's federal tax returns if the Bureau can demonstrate that the federal tax information is reasonably necessary and the information is not available elsewhere, or from the Pennsylvania Department of Revenue.

The taxpayer is solely responsible for obtaining the information and for any costs associated with

obtaining the records or information.

**What may this Bureau do to enforce collection of taxes:**

If a taxpayer or business entity or employer has not filed a timely and properly completed tax return form and/or paid a tax liability determined to be due and the taxpayer has not filed a timely appeal of the liability, this Bureau may take the following actions:

- (1) This Bureau may contact a taxpayer or delinquent taxpayer and attempt to resolve the liability through payment in full, payment plan, or compromises. This Bureau may utilize outside legal counsel to assist in collecting taxes deemed to be delinquent.
- (2) If a taxpayer owes delinquent taxes or has not filed a properly completed tax return form, this Bureau may deny the issuance of any applicable license for any tax this Bureau collects on behalf of a taxing authority.
- (3) The Bureau may file a civil law suit against the person responsible for filing the tax return form and/or for payment of the tax or delinquent tax, employer withholding, etc., and obtain a judgment which would be the basis of a levy to seize the property of the taxpayer.
- (4) The Bureau may file a criminal complaint or action against a taxpayer, or employer, business owner, etc., when a properly prepared tax return form has not been received by this Bureau.
- (5) The Bureau may also investigate and assess and advance through the Courts of Common Pleas actions against delinquent taxpayers violating criminal statutes and governing legislation.
- (6) The Bureau may also prepare and issue a wage attachment to employers of a taxpayer when a taxpayer does not remit to this Bureau timely payment of tax due this Bureau on behalf of a member taxing authority.