



CITY OF PITTSBURGH

PAYROLL TAX

REGULATIONS

Issued Pursuant to the
City of Pittsburgh
City Code, Title II
Article VII, Chapter 258

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PAYROLL TAX REGULATIONS

ARTICLE I GENERAL PROVISIONS

SECTION 101 – DEFINITIONS

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

ASSOCIATION – Partnership, limited partnership, business trust, limited liability company, or any other form of unincorporated business or enterprise owned or operated by two or more persons.

BUSINESS – activity, enterprise, profession, trade or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in, with the object of gain, benefit or advantages, whether direct or indirect, to the taxpayer or to another or others. The term shall include subsidiary or independent entities which conduct operations for the benefit of others and at no profit to themselves, nonprofit businesses, and trade associations. Only Payroll Expense associated with a Business that conducts business within the City is subject to tax.

BUSINESS WITHIN THE CITY - A person shall be deemed to be conducting business within the City if one engages, hires, employs or contracts with one or more individuals as employees, Partners, or is self-employed and, in addition, does at least one of the following: (1) maintains a fixed place of business within the City; (2) owns or leases real property within the City for purposes of such business; (3) maintains a stock of tangible, personal property in the City for sale in the ordinary course of business; (4) conducts continuous solicitation within the City related to such business; or (5) utilizes the streets of the City in connection with the operation of such business, other than for the mere transportation from a site outside the City, through the City, to a destination outside of the City. A person shall not be deemed to be engaged in business solely by reason of the receipt of Passive Income for which no services are rendered. Local Tax Enabling Act, 53 P.S. § 6924.303(b). For persons who perform services within and without the City, Payroll Expense shall be apportioned in accordance with Section 102 of these regulations.

CHARITY – a charitable organization that qualifies for tax exemption pursuant to the act of November 26, 1997 (P.L. 508, No 55), known as the “Institutions of Purely Public Charity Act”, 10 P.S. § 371, that provides the evidence required by 10 P.S. § 376(a).

CITY – the area within the city limits of the City of Pittsburgh.

COMPENSATION – salaries, wages, commissions, bonuses, net earnings and incentive payments, whether based on profit or otherwise, fees, tips and any other form of remuneration earned for services rendered, whether paid directly or through an agent, and whether in cash or in property or the right to receive property, excluding any Passive Income received by Partners or Self-employed persons.

The Compensation of a Partner or Self-employed person is that person’s Taxable Distributions from each separate Business carried on within the City.

DISTRIBUTIONS – drawing account; the owner’s account for recording any withdrawals.

DRAWING ACCOUNT – a temporary capital account, set up in the name of a Partner or Self-employed person from which the individual can withdraw money or other assets in anticipation of profit of the business.

EMPLOYEE – any individual in the service of an Employer, under an appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed.

Individuals who may be classified as an independent contractor under the tax reporting rules associated with IRS Form 1099-MISC, can be re-classified as Employees for purposes of this tax. Irrespective of the common law tests for determining the existence of an independent contractor relationship, an individual performing work or service for Compensation shall be deemed to be an Employee of the person for whom the work or service is performed unless: (1) such individual has been and will continue to be free from control or direction over the performance of such work or service, under his/her appointment or contract of hire or apprenticeship; (2) such work or service is outside the usual course of the business of the person for which such service is performed; or, (3) such individual is customarily engaged in an independently established trade, occupation, business or profession. A Partner or Self-employed person is not an Employee.

EMPLOYER – any person conducting Business within the City. An Exempt Employer is not an Employer under these regulations. A Partnership is an Employer as to its Employees and as to any of its Partners providing service in the City. A Partner, conducting one or more businesses within the City through a Partnership, where the Partnership does not file a Payroll Tax return with the City, is an Employer. Any Self-Employed Person conducting one or more Business within the City is an Employer.

Any person who is classified as an employer under the Pennsylvania Personal Income Tax statute is an Employer under these regulations. 72 P.S. § 7301(h). The term Employer includes any person that makes an election under 26 U.S.C. § 3504 to act as a payroll agent, or any person who both withholds and remits the City local earned income tax, 53 P.S. § 6924.501, or the City local services tax, 53 P.S. § 6924.301.1(9)(v), on behalf of another. 53 P.S. § 6924.303(j). To decide issues involving joint employers, the City will look to the guidance provided under the Fair Labor Standards Act, 29 C.F.R. § 791.2 (85 FR 2820, effective March 16, 2020).

For example, a payroll reporting company that is not a common law employer of the workers of another unless it is: (a) an employer of those workers under 72 P.S. § 7301(h) or (b) the joint employer of those workers.

EXEMPT EMPLOYER – any person that is a Governmental Entity. A contractor or consultant, classified as a Partner, a Self-employed person, or a person receiving Form 1099-MISC, providing services to an Exempt Employer is not itself exempt merely because he or she derives service revenue from a Governmental Entity.

GUARANTEED PAYMENTS – payments to Partners by the Partnership for services that are determined without regard to the net income of the Partnership. For example, health insurance premiums paid by the Partnership on behalf of any Partner are Guaranteed Payments because they are determined without regard to the net income of the Partnership.

GOVERNMENTAL ENTITY – any agency, authority, department, or instrumentality of the federal government or of another State, and any unit of government listed under 101 Pa. Code § 23.221.

INTERNAL REVENUE CODE – the Internal Revenue Code of 1986 (Public Law 99- 514), as amended, 26 U.S.C. § 1, and following, as it was in effect on January 1, 2020. Any citation to regulations issued under the Internal Revenue Code of 1986, 26 C.F.R. § 1, and following, refers to the regulations in effect on January 1, 2020.

NET DISTRIBUTION – the amount of a Partner’s or Self-employed person’s draws from net income from one or more Businesses that have activities in the City shall be reported for the Payroll Expense Tax. For purposes of this regulation, **TAXABLE DISTRIBUTIONS** are limited by the sum of draws or net income for that Partner or Self-employed person, whichever is less. If the Partner’s or Self-Employed person’s Net Distribution exceeds that individual’s share of net profits from a particular Business, the excess draw is a return of capital. A return of capital is not taxable because this is a liquidation of a Partner’s or Self-employed person’s assets by the owner. A Partner’s Taxable Distributions shall include a partner’s share of Guaranteed Payments from the Partnership. Taxable Distributions shall be determined using the same tax accounting method used to report taxable income for Pennsylvania Personal Income Tax purposes, Tax Reform Code of 1971. Taxable Distributions from a Business are presumed to be derived from the current year’s net income of that Business.

PARTNER – an individual owner or member in a Partnership. A Partner will owe tax based on Taxable Distributions. A Partner is not taxed on his or her Passive Income.

PARTNERSHIP – an unincorporated entity, joint venture, business trust, general partnership, limited partnership, limited liability company, syndicate, or any other unincorporated association, with two or more owners that is taxed for Pennsylvania state income purposes as a pass-through entity. Tax Reform Act of 1971, 72 P.S. § 7401 (definition of a “Corporation”). An unincorporated entity, with one owner, that is treated under the federal “check-the-box” as a disregarded entity is not a Partnership. 26 C.F.R. § 301.7701-3 (as it was in effect on January 1, 2020). See, Tax Reform Act of 1971, 72 P.S. § 7307.21. An unincorporated entity, with one or more owners, that has made the federal “check-the-box” election to be taxed as a “corporation” is not a Partnership but it may be an Employer.

PASSIVE INCOME – Items of income earned by a Partner or Self-employed person from interest (not derived from working capital investments), dividends, capital gains (except for an individual who is considered a trader and not an investor), ground rents, royalties associated with the development of natural resources through a non-operating interest, retirement income earned after retirement, and real estate rental income where substantial services are not provided to tenants, is non-taxable Passive Income. In determining whether any portion of net profits from a Business may constitute Compensation or non-taxable Passive Income, the Treasurer will follow the guidance issued under Tax Reform Code of 1971, 72 P.S. § 7303(a), and the PA Personal Income Tax Return Guide, except where such guidance is inconsistent with the purposes of the Payroll Tax. Income earned by a Partner or by a Self-employed person, is not Passive Income if the business provides professional services (e.g. law, accounting, architectural, professional engineering, actuarial, or medical services) or personal services to customers, unless the Partner or Self-Employed person is retired, based on age or years of service, and does not provide services to the business. Guaranteed Payments made to a Partner are not Passive Income. Payments made to a retiring Partner under Section 736 of the Internal Revenue Code, 26 U.S.C. § 736, are Passive Income. The Passive Income

exclusion only applies to Partners and Self-employed persons, but not to Employees whose Compensation is reported to the taxing authorities on a Form W-2 or Form 1099-MISC.

PAYROLL EXPENSE – the total Compensation paid, including salaries, wages, net distributions, commissions, bonuses, stock options and other compensation to all individuals who during any tax year, perform work or render services in whole or in part in the City of Pittsburgh. Employee contributions and deductions resulting from an employee election, whether deferred or otherwise, to qualified cash or deferred arrangements, such as an Internal Revenue Code Section 401(k) retirement plan or Internal Revenue Code Section 125 “cafeteria plan”, do not reduce total Compensation. Compensation meeting the definition of earned income would be part of the Payroll Expense Tax associated with a particular Employee who is not a Partner or a Self-employed person. Local Tax Enabling Act, 53 P.S. § 6924.501 (“Earned Income”). The Payroll Tax is on gross payroll of the Employer. The Employers’ portions of federal and state payroll taxes, health insurance premiums, retirement plan contributions, etc., are not part of taxable gross payroll.

The Payroll Expense of a Partner or Self-employed person is the cumulative annual Taxable Distributions associated with each separate Business carried on within the City rather than “Earned Income” as defined in 53 P.S. § 6924.501.

PERSON – a corporation, Partnership, Partner, Self-employed individual, business trust, association, unincorporated entity, estate, trust, foundation or natural person. Whenever used in any provision prescribing a fine or penalty the word “person” as applied to Partnerships, shall mean the Partners thereof, and as applied to corporations and unincorporated associations, shall mean the officers thereof. A Governmental Entity is not a Person.

SELF-EMPLOYED – an individual who earns Compensation from one or more separate Businesses carried on within the City, other than as an Employee or as a Partner. The single member owner of an unincorporated entity that is treated as disregarded entity under the federal “check-the-box” regulations, 26 C.F.R. § 301.7701-3 (as it was in effect on January 1, 2020), is treated as Self-Employed and not as a Partner. The Compensation of a Self-employed individual shall be that person’s Taxable Distributions from each separate business reported on Schedules C, E, or F of the Pennsylvania individual income tax Form PA-40, as well as any other non-employee Compensation, which is not otherwise reported on Schedules C, E, or F. Passive Income of a Self-employed person is not subject to the Payroll Tax. If the Self-Employed person does not keep records of Taxable Distributions, the entire net income of each separate Business is presumed to be a Taxable Distribution. Any individual who is classified as an Employee, because of the control exercised by the Employer, is not Self-Employed as to any Compensation associated with that particular Business.

TAX YEAR – a twelve-month period from January 1 to December 31.

TAXPAYER – a person, partnership, association, corporation, or other entity required hereunder to file a return of payroll expense, or to pay a tax thereon. An Employer, Partner, or Self Employed person are a Taxpayer. An Exempt Employer is not a Taxpayer.

TEMPORARY SEASONAL OR ITINERANT BUSINESS – shall mean an Employer whose presence in the City is of a duration of one hundred twenty (120) days or less.

TREASURER – references to the Treasurer in these regulations refer to the Director and/or the Department of Finance. The Director holds principal responsibility for tax administration in the City of Pittsburgh. The Deputy Director of Finance serves as City Treasurer.

SECTION 102 – WHO MUST FILE A RETURN

- a. The City Code, Title II, Article VII, Chapter 258, imposes a Payroll Tax on all persons that engage, hire, employ or contract with one or more individuals, as employees, to perform work or render services within the City of Pittsburgh. The Payroll Tax is computed on the employer's payroll expense. The Payroll Tax on Partners and Self-Employed is computed based on Taxable Distributions from any Businesses.
- b. One hundred percent of the payroll expense is attributable to the City of Pittsburgh for Employers whose employees perform work or render services exclusively in the City of Pittsburgh.
- c. One hundred percent of a Partner's or Self-employed person's Taxable Distributions are attributable to the City of Pittsburgh for person(s) who have net income from sales or services rendered exclusively in the City of Pittsburgh.
- d. For employers whose employees perform work or render services partly within and partly outside of the City of Pittsburgh, the method of computing their payroll expense attributable to the City of Pittsburgh is to use the percentage of the total number of working hours employed within the City of Pittsburgh compared to the total number of working hours employed within and outside of the City of Pittsburgh for each individual employee. Local Tax Enabling Act, 53 P.S. § 6924.303(a).
- e. Employers who have payroll expense consisting of work done within and outside of the boundaries of the City of Pittsburgh, but who do not regularly maintain records showing hours worked so as to be able to use the apportionment method under subsection (d) of this regulation, may use a representative test period or conduct a survey based on factual data to arrive at a formula with which to calculate the percentage of payroll expense attributable to the City of Pittsburgh. Any formula so established will be subject to review and correction by the City of Pittsburgh. A thorough description explaining the formula shall be attached to the first return each year. The data supporting the formula shall be maintained for at least three (3) years as a part of office records for audit and review purposes.
- f. Partners and Self-Employed individuals who have Taxable Distributions generated from intrastate sales or services partly within the City of Pittsburgh or partly outside the City of Pittsburgh shall report on the Taxable Distributions associated with sales or services rendered within the City of Pittsburgh. Where it is impractical to determine the exact Taxable Distributions, an apportionment formula may be used. Any formula so established will be subject to review and correction by the City of Pittsburgh Finance Department. The data supporting the formula must be maintained as a part of office records for audit and review purposes. A thorough description explaining the formula shall be attached to the first return each year. The data supporting the formula shall be maintained for at least three (3) years as a part of office records for audit and review purposes.
- g. Partners and Self-employed individuals who have Compensation from sources within and without Pennsylvania, may apportion their Compensation to the City using the formula used reporting personal income tax on Form PA-40, 61 Pa. Code § 109.5, by substituting the word "City" for the "Commonwealth" where necessary. In making that calculation, all intrastate sales and services within Pennsylvania are deemed allocated to the City if the Partner's or Self-employed individual's sole office in Pennsylvania is

located in the City.

- h. An employer which conducts business in the City of Pittsburgh on a temporary, seasonal or itinerant basis shall file a return and pay the tax within ten (10) days of the completion of the temporary, seasonal, or itinerant business.

ARTICLE II IMPOSITION OF TAX

SECTION 201 – LEVY AND RATE

The tax levied pursuant to the City Code, Title II, Article VII, Chapter 258 is known as the Payroll Tax. The rate of tax is fifty-five hundredths of a percent (.55% or .0055) of Payroll Expense generated as a result of an employer conducting business within the City of Pittsburgh. Local Tax Enabling Act, 53 P.S. § 6924.303(a); Local Tax Enabling Act. 53 P.S. § 6924.311(12).

SECTION 202 – COMPUTATION OF TAX

- a. The Payroll Tax is a tax that is levied on Employers. This tax is separate and distinct from the earned income tax withheld from employees. Under no circumstance should the Payroll Tax be deducted from the employees' compensation or benefits. Local Tax Enabling Act, 53 P.S. § 6924.303(f).
- b. The payroll amount apportioned to the City shall be determined as set forth in Section 102 of the Regulations.
- c. Tax Base – The tax shall be paid quarterly and the tax for each quarter shall be computed on the Payroll Expense of the current quarter attributable to the City of Pittsburgh. The Tax Base for Partners and Self-Employed individuals is Taxable Distributions associated with each separate Business within the City.
- d. An employer which conducts Business in the City of Pittsburgh on a temporary, seasonal or itinerant basis shall calculate the tax on the total compensation earned while in the City of Pittsburgh.
- e. Discontinuing Business – Every person who ceases to carry on a Business during any tax quarter after having paid the Payroll Tax for the entire quarter shall, upon making proper application on a form obtained from the Treasurer, be entitled to receive a prorated refund of the tax paid based upon the period of time he was not in Business during the tax quarter. In the event that a person who discontinues Business during any tax quarter does so before payment of the tax becomes due for such tax quarter, said person may apportion the tax and pay an amount to be computed by multiplying the Payroll Expense for the preceding tax quarter by a fraction whose numerator shall be the number of days such person was in Business during the current tax quarter and whose denominator shall be the total number of days in the current quarter. The final return shall be due ten (10) days after the discontinuation of Business. Self-employed individuals and Partners are considered to have discontinued their Business only if all separate Businesses of the individual are discontinued.
- f. A charitable organization, as defined above, shall calculate the tax that would otherwise be attributable to the City of Pittsburgh and file a return, but only shall pay the tax on

that portion of its Payroll Expense attributable to business activity for which a tax may be imposed pursuant to Section 511 of the Internal Revenue Code. 26 U.S.C. § 511. That section imposes a federal tax on unrelated business taxable income of a charity that is exempt from federal tax under Section 501(c) of the Internal Revenue Code. 26 U.S.C. § 501(c). If the charity has purchased or is operating branches, affiliates, subsidiaries or other business entities that do not independently meet the standards of the “Institutions of Purely Public Charity Act”, the tax shall be paid on the payroll attributable to such for-profit branches, affiliates or subsidiaries, whether or not the employees are leased or placed under the auspices of the charity’s umbrella or parent organization. Local Tax Enabling Act, 53 P.S. § 6924.303(a.1).

- g. By reason of the explicit language in the Local Tax Enabling Act, 53 P.S. § 6924.303(a.1), Institutions of Purely Public Charity are not exempt from the Payroll Tax. However, Institutions of Purely Public Charity are exempt from Payroll Tax associated with activities that are related to the charitable purposes for which the Institution was formed. For purposes of determining whether an activity is related to the charitable purposes for which the Institution was formed or unrelated under Section 511 of the Internal Revenue Code, 26 U.S.C. § 511, the Treasurer will follow federal law in effect on January 1, 2020.
- h. Any person, other than an Exempt Employer, that believes that it is exempt from paying the Payroll Tax, because of a tax exemption granted under federal, state, or local law shall file its return, caption the return “EXEMPT,” and provide a short citation to the legal basis for its exemption.

ARTICLE III
EMPLOYER'S RESPONSIBILITY

SECTION 301 – PAYROLL TAX LEVIED ON EMPLOYERS

- a. Every Employer not registered with the City of Pittsburgh shall, within fifteen (15) days, register with the Treasurer the Employer's name, address and such other information as the Treasurer may require. The first return for a new business is calculated on the Payroll Expense for the portion of the quarter it was in business.
- b. The Payroll Tax is a tax that is levied on Employers. Under no circumstance may the Payroll Tax be deducted from the Employees' wages.
- c. It may be necessary to include Form 1099's issued to individuals in the Employer's calculations of the Payroll Tax. See "Employee" definition.
- d. It shall be the Employer's responsibility, upon request from the City of Pittsburgh, to provide a list of sub-contractors which includes their name, address, Federal Employer Identification Number (EIN), contact person and their phone number.

Historical Note - For the Years 2005-2015 the Payroll Tax for the First Quarter was due February 28 based on Payroll Expense In October, November and December of the prior calendar year.

EFFECTIVE FOR 2016 AND THEREAFTER, THE PAYROLL TAX FOR THE FIRST QUARTER IS DUE ON MAY 31 BASED ON PAYROLL EXPENSE IN JANUARY, FEBRUARY, AND MARCH OF THAT YEAR.

- e. The Payroll Tax is to be paid as follows:

The first quarterly return, which is due May 31 of the current year, shall be filed and the tax shall be paid based on the amount of Payroll Expense during the months of January, February, and March of the current year; the second quarterly return, which is due August 31 of the current year, shall be filed and the tax shall be paid based on the amount of Payroll Expense during the months of April, May, and June of the current year; the third quarterly return, which is due November 30 of the current year, shall be filed and the tax shall be paid based on the amount of Payroll Expense during the months of July, August, and September of the current year; the fourth quarterly return, which is due February 28 of the succeeding year, shall be filed and the tax shall be paid based on the amount of Payroll Expense during the months of October, November, and December of the current year.
- f. Any Employer, who discontinues Business or ceases operation before December 31 of the current tax year, shall within 10 days after discontinuing Business or ceasing operation, if not already filed and paid, file the return hereinabove required and pay the tax to the Treasurer.
- g. If for any reason the tax is not paid when due, interest at the rate of six percent per annum (6%) on the amount of said tax and an additional penalty of one percent (1%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Local Tax Enabling Act, 53 P.S. § 6924.303(h).

**ARTICLE IV
ADMINISTRATION AND ENFORCEMENT**

SECTION 401 – POWERS AND DUTIES OF TREASURER (DIRECTOR)

- a. It shall be the duty of the Treasurer to collect and receive the taxes, fines, and penalties imposed by the City Code, Title II, Article VII, Chapter 258. It shall also be the duty of the Treasurer to keep a record showing the date of such receipt.
- b. The Treasurer is charged with the administration and enforcement of the provisions of the City Code, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of the City Code, including provisions for the reexamination and corrections of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of the City Code.
- c. The Treasurer is authorized to issue a ruling upon written request of a taxpayer.

SECTION 402 – EXAMINATION OF BOOKS AND RECORDS OF TAXPAYERS AND EMPLOYERS

- a. Agents designated by the Treasurer are hereby authorized to examine the books, papers and records of any Employer or supposed employer, or of any Taxpayer or supposed taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every Employer or supposed employer, and every Taxpayer or supposed taxpayer, is hereby directed and required to give to the Treasurer, or to any agent designated by him/her, the means, facilities and opportunity for such examinations and investigations, as are hereby authorized. Local Tax Enabling Act, 53 P.S. § 6924.315; Local Tax Enabling Act, 53 P.S. § 6924.303(c).
- b. If records are not available in the City of Pittsburgh to support the returns which were filed or which should have been filed, the Taxpayer will be required to make them available to the Treasurer either by producing them in a City of Pittsburgh location or by paying for the expenses incurred by the Treasurer in traveling to the place where the records are regularly kept.
- c. Any information gained by the Treasurer, by designated agents, or by any other official or agent of the City of Pittsburgh, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by the City Code, shall be confidential except for official purposes and shall not be released except in accordance with a proper judicial order, or as otherwise provided by law. Local Taxpayer Bill of Rights, 53 Pa.C.S. § 8437.
- d. A Taxpayer shall have at least thirty (30) calendar days to respond to audit notices. A Taxpayer may request a reasonable extension of time in accordance with the Local Taxpayer Bill of Rights, 53 Pa.C.S. § 8424(a).

SECTION 403 – RECORDS TO BE KEPT BY THE TAXPAYER

Taxpayers and Employers liable for the Payroll Tax are required to keep such records as will enable the filing of true and accurate returns of the tax and such records shall be preserved for a period of not less than three (3) years from the filing date or due date whichever is later in order to enable the Treasurer or any agent designated by him to verify the correctness of

the declarations or returns filed.

SECTION 404 – AUDITS AND TIME FOR ASSESSMENTS

A Taxpayer has thirty (30) calendar days to respond to audit notices. If additional time is necessary, the Taxpayer may request a reasonable extension of that time upon a showing of good cause. 53 Pa.C.S. § 8424(a).

If, as a result of an examination conducted by the Treasurer, a return is found to be incorrect, the Treasurer is authorized to assess and collect any underpayments of the Payroll Tax. If no return has been filed and a tax is found to be due, the tax actually due may be assessed and collected with or without the formality of obtaining a return from the Taxpayer. Deficiency assessments (i.e., where Taxpayer has filed a return but is found to owe additional tax) shall include taxes for up to three (3) years prior to the date when the deficiency is assessed. If the deficiency exceeds twenty-five percent or more of the tax originally self-reported, but no fraud is found, suit must be begun within six years. Where no return was filed, or a fraudulent return was filed, there shall be no limit to the period of assessment. Local Tax Enabling Act, 53 P.S. § 6924.303(g).

ARTICLE V
SUITS FOR TAX COLLECTIONS, VIOLATIONS, FINES, INTEREST & PENALTIES

SECTION 501 – REMEDIES NOT MUTUALLY EXCLUSIVE

The remedies provided in Section 502 or Section 505 are not mutually exclusive. The utilization by the Treasurer of one remedy does not preclude utilization of the other.

Moreover, use of either or both of the remedies provided in these Sections does not preclude the use by the City of Pittsburgh of any other legal or administrative procedure which can bring about compliance by the taxpayer with the provisions of Chapter 258 of the Pittsburgh Code and these regulations.

Any voluntary payment made by a Taxpayer, unless otherwise specified in writing, shall be applied first to tax, then to interest, then to penalty, then to any other fees or charges. Local Taxpayer Bill of Rights, 53 Pa.C.S. § 8429.

SECTION 502 – SUITS FOR RECOVERY OF UNPAID TAXES

The Treasurer may sue in the name of the City of Pittsburgh, in law or in equity, for the recovery of those taxes due and unpaid under the provisions of the Payroll Tax, to compel the production of records or to enforce any other provisions of the law.

SECTION 503 - LIMITATIONS

- a. The following periods of limitations shall apply to suits for collection of taxes. Local Tax Enabling Act, 53 P.S. § 6924.303(g).
 1. When a return has been filed but no tax paid, any suit brought to recover the tax due and unpaid shall be filed within three (3) years after the return was due or filed, whichever is later. Where no return was filed, there shall be no limit to file suit for the collection of taxes.
 2. In the case of a deficiency assessment, suit shall be filed within three (3) years after the assessment has been made.
- b. The limitations set forth in paragraph (a) shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:
 1. When no return was filed, there is no limitation.
 2. When the return is fraudulent, there is no limitation.
 3. When there is an understatement of tax liability of twenty-five (25%) or more, and not due to fraud, suit must be begun within six (6) years.
 4. A return filed before the due date is deemed to be filed on the due date.

SECTION 504 – PENALTY AND INTEREST

- a. If for any reason the Payroll Tax is not paid when due, interest at the rate of six (6%) percent per annum on the amount of tax and a penalty of one (1%) percent per month for each month or fraction of a whole month during the period in which the tax remains unpaid shall be added to the tax. Local Tax Enabling Act, 53 P.S. § 6924.303(h).
- b. Penalty and Interest on Deficiency Assessment.

On any additional tax determined to be due as a result of a deficiency assessment, penalty and interest will be assessed from the day the tax should have been paid to the date of payment. Penalty and interest is calculated as described above in the applicable portion of Section 504(a).
- c. Where suit is brought for the recovery of such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed. Local Tax Enabling Act, 53 P.S. § 6924.303(h). Once due and owing, penalty and interest become part of the tax and shall be collected as such. A person's belief that no tax is due and owing, or the failure of any person to receive or obtain the forms required for making the returns required under the City Code is not a valid defense to the imposition of penalties herein for violation.
- d. Good faith shall not be a defense to the imposition of penalty and interest. Penalty and interest may be abated only in accordance with the Local Taxpayers Bill of Rights, 53 Pa.C.S. § 8428.

SECTION 505 – FINES AND PENALTIES FOR VIOLATION OF APPLICABLE PROVISIONS OF TITLE TWO, PITTSBURGH CODE

- a. Violations – No person shall:
 1. Fail, neglect, or refuse to make any declaration or file a return required under the City Code.
 2. Refuse to permit the Treasurer or his/her designee to examine the books, records or accounts of any business, taxable or otherwise, to determine liability.
 3. Make any incomplete, false or fraudulent return or attempt to do anything to avoid full disclosure of the amount of tax due to avoid payment in whole or in part, of the Payroll Tax.
 4. Divulge information, which is confidential under Chapter 201.06 of the City Code.
 5. Fail to make any payment when it is due.
- b. Pursuant to the Local Tax Enabling Act, 53 P.S.6924.303(i), in addition to any other penalties or enforcement proceedings provided for by ordinance for the collection and enforcement of taxes:
 1. Any employer who willfully makes any false or untrue statement on the employer's return shall be guilty of a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not more than two thousand dollars (\$2,000) or to a term of imprisonment of not more than two years, or both;
 2. Any employer who willfully fails or refuses to file a return required by this chapter shall be guilty of a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than one thousand dollars (\$1,000) or to a term

of imprisonment of not more than one year, or both; and

3. Any person who willfully fails or refuses to appear before the Treasurer or his agent in person with the Employer's books, records or accounts for examination when required under the provisions of Title Two of the City Code to do so, or who willfully refuses to permit inspection of the books, records or accounts of any Employer in the person's custody or control when the right to make such inspection by the Treasurer or his agent is requested, shall be guilty of a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than five hundred dollars (\$500) or to a term of imprisonment of not more than six months, or both. The fines and terms of imprisonment, imposed under this Section shall be in addition to any other relief granted to the City of Pittsburgh of a monetary nature under the provisions of this Article. Local Tax Enabling Act, 53 P.S. § 6924.303(i).
4. Each and every day that the violation continues shall constitute a separate offense for which a fine may be imposed.

ARTICLE VI TAXPAYER REMEDIES

SECTION 601 – TREASURER HEARINGS

a. Any Taxpayer aggrieved by an assessment by the Treasurer shall, within ninety (90) days after the date of notice of the assessment, request a Treasurer's Hearing on a form obtained from the Treasurer for that purpose. 53 Pa.C.S. § 8431. The Treasurer may on his/her own initiative cite a Taxpayer for a hearing.

b. Any Taxpayer who fails to request a Treasurer's Hearing within a timely manner, waives the right to contest any element of the assessment, and that party's failure to challenge the Treasurer's adjudication will be construed as an admission by that party as to the propriety of the assessment.

c. The written petition for reassessment shall contain at minimum:

1. The petitioner's name, address, and daytime telephone number.
2. The petitioner's account and/or social security number.
3. A copy of the assessment notice the party received from the Finance Department.
4. A detailed explanation consisting of the reason or reasons the petitioner disagrees with the assessment and any documentation necessary to support the petitioner's claims.
5. Petitioner's signature.

d. The completed petition should be mailed to:

TREASURER HEARINGS
TREASURER – CITY OF PITTSBURGH
414 GRANT ST
PITTSBURGH PA 15219-2476

e. Any Taxpayer may request a Treasurer's Hearing so that his tax refund request can be reviewed.

f. The Treasurer will abate any penalties and interest only in accordance with 53 Pa.C.S. § 8428.

g. The Treasurer will issue its decision within sixty (60) days of the receipt of the petitioner's complete and accurate petition form.

SECTION 602 – APPEALS

Any person aggrieved by the decision of the Treasurer, following a hearing, shall have the right to make an appeal to the Court of Common Pleas of Allegheny County, in accordance with the Taxpayer's Bill of Rights Act. 53 Pa.C.S. § 8434. Any appeal must be commenced within thirty (30) days of the date of the notice of the Treasurer's decision. If no such appeal is timely filed, the aggrieved party waives his/her right to contest any element of the Treasurer's adjudication, and that party's failure to challenge the same will be construed as an admission by that party as to the propriety of the Treasurer's decision. No hearing or appeal will operate to suspend the accrual of penalty and interest from the date the tax was due to the date it is actually paid.

SECTION 603 – PAYMENT UNDER PROTEST

The Treasurer will accept payments of disputed tax amounts under protest pending appeals; however, any request for refund of such monies must be filed in accordance with Section 604.

SECTION 604 – REFUNDS

- a. A Taxpayer who has overpaid the Payroll Tax, or who believes he is not liable for the Payroll Tax may file a written request on an amended tax return (ET-1) with the Department of Finance for a refund or a credit of the tax. A request for refund or a credit shall be made within three (3) years of the due date for filing the report or one year after actual payment of the tax, whichever is later. If no report is required, the request shall be made within three (3) years after the due date for payment of the tax or within one (1) year after actual payment of the tax, whichever is later. Local Taxpayers Bill of Rights, 53 Pa.C.S. § 8425(a).
- b. For amounts paid as a result of a notice asserting or informing a Taxpayer of an underpayment, a written request for a refund shall be filed with the Department of Finance within one (1) year of the date of the payment. Local Taxpayers Bill of Rights, 53 Pa.C.S. § 8425(b)
- c. Erroneous Refund Recovery – The Treasurer may sue for recovery of an erroneous refund provided such suit is begun two (2) years after making such refund, except that the suit may be brought within five (5) years if any part of the refund was induced by fraud or misrepresentation of material fact.

SECTION 605 – INSTALLMENT PAYMENT PLAN FOR ANY DEFICIENCY

In the appropriate circumstances, the Treasurer will enter an installment payment plan and defer further collection action, if the Taxpayer enters into a written agreement with the Treasurer. The Treasurer will approve installment payment plans only if such a plan is in the best interests of the City. The Taxpayer must specifically request the installment payment plan from the Treasurer. For the required terms of any installment plan See, Second Class City Treasurer's Sale and Collection Act, 53 P.S. § 27207 and Local Taxpayer Bill of Rights, 53 Pa.C.S. § 8436. If the Taxpayer fails to abide by the terms of the installment payment plan, the Treasurer may demand immediate payment of tax, penalty, and interest.

SECTION 606 – SAVINGS CLAUSE AND SEVERABILITY

If a final decision of a court of competent jurisdiction holds any provision of these regulations, or the application of any provision to any circumstances, to be illegal or unconstitutional, the other provisions in these regulations, or the application of such provision to other circumstances, shall remain in full force and effect.

The intent of the Treasurer is that the provisions of these regulations shall be severable and that they would have been adopted if any such illegal or unconstitutional provisions had not been included herein.

SECTION 607 – TAXPAYER DISCLOSURE STATEMENT

A copy of the Taxpayer Bill of Rights can be requested in writing at the address below or downloaded at http://apps.pittsburghpa.gov/finance/10_taxpayers_bill_of_rights.pdf

TREASURER, CITY OF PITTSBURGH
AUDIT SECTION
414 GRANT ST RM 206
PITTSBURGH PA 15219-2476