

ORDINANCE 7-01 OF 2011

**PITTSTON TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA,
ESTABLISHING PROCEDURES IN ORDER TO COMPLY WITH THE
LOCAL TAXPAYERS BILL OF RIGHTS**

WHEREAS, Act 50 of 1998, the Local Taxpayer Bill of Rights (the "Act") provides for the establishment of a local taxpayer bill of rights, a disclosure statement to be provided to any taxpayer contacted concerning an audit, assessment, determination, review or collection of an eligible tax (as defined below), the availability of the disclosure statement referenced in the Act, and a free copy of the disclosure statement be provided to the taxpayer upon the taxpayer's request; and

WHEREAS, PITTSTON TOWNSHIP, LUZERNE COUNTY, Pennsylvania (the "Township") is a local taxing authority subject to the provisions of the Act; and

WHEREAS, the Township, as a local taxing authority, desires to comply with the Act by adopting a Local Taxpayer Bill of Rights.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township, in accordance with the Act, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

Section 1. Definitions. The following words and phrases when used in this Ordinance shall have the meanings given to them in this section unless the context clearly indicates otherwise:

- (a) Act 50. Act 50 of 1998, known as the "Local Taxpayers Bill of Rights".
- (b) Appeals Board. A board of local tax appeals established under Section 509 of the Act (relating to administrative appeals).
- (c) Assessment. The determination by a local taxing authority of the amount of underpayment by a taxpayer.
- (d) Board of Supervisors. The Board of Supervisors of the Township.
- (e) Eligible Tax. Any of the following, including interest and penalty provided by law, when levied by a political subdivision:
 - (1) Any tax authorized or permitted under the Act of December 31, 1965 (P.L. 1257, No. 511)," known as The Local Tax Enabling Act. Any per capita tax levied under any act.

LOCAL TAXPAYERS BILL OF RIGHTS

- (2) Any occupation, occupation assessment or occupation privilege tax levied under any act.
- (3) Any tax on income levied under any act.
- (4) Any tax measured by gross receipts levied under any act.
- (5) Any tax on a privilege levied under any act.
- (6) Any tax on amusements or admissions levied under any act.
- (7) Any tax on earned income and net profits.

Except as provided in Section 5 of this Ordinance, the provisions of this Ordinance shall not apply to any tax on real property.

(f) Local Taxing Authority. A political subdivision levying an eligible tax. The term shall include any officer, agent, agency, clerk, income tax officer, collector, employee or other person to whom the Board of Supervisors 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 an eligible tax or whose only responsibility is to collect an eligible tax on behalf of the Board of Supervisors.

(g) Taxpayer. An individual, partnership, association, corporation, limited liability company, estate, trust, trustee, fiduciary or any other entity subject to or claiming exemption from any eligible tax or under a duty to perform an act for itself or for another under or pursuant to the authority of an act providing for an eligible tax.

(h) Township. The Township of PITTSTON TOWNSHIP, LUZERNE COUNTY, Pennsylvania.

Section 2. Notice and Distribution of Disclosure Statement. The Township, as a local taxing authority, shall notify any taxpayer contacted regarding the assessment, audit, determination, review or collection of an eligible tax of the availability of a disclosure statement. The local taxing authority shall make copies of the disclosure statement available to taxpayers upon request at no charge to the taxpayer, including mailing costs. A copy of the notification shall read as follows:

You are entitled to receive a written explanation of your rights with regard to the assessment, audit, appeal, enforcement, refund and collection of local taxes. The written explanation is entitled "Pittston Township Taxpayers Bill of Rights Disclosure Statement". Upon receiving a request from you, the Township will provide you with a copy of the Disclosure Statement at no charge. You may request a copy in person, or by mailing a written request to the following address:

LOCAL TAXPAYERS BILL OF RIGHTS

Pittston Township Secretary
421 Broad Street
Pittston, Pa 18640

A copy will also be mailed to you if you call the Township Secretary at telephone number (570) 654-0161 weekdays during the hours of 9:00 a.m. to 4:00 p.m.

Section 3. Requirements for Requests. The Disclosure Statement shall set forth the following information as required by Act 50 and shall be made available for distribution as set forth in Section 2 of this Ordinance:

- (a) The rights of a taxpayer and the obligation of a local taxing authority during an audit or administrative review of a taxpayer's books and records.
- (b) The administrative and judicial appeals process.
- (c) The procedure for filing and processing refund claims and taxpayer complaints.
- (d) The enforcement procedures.

Section 4. Minimum Time Periods for Taxpayer Response to Requests from Local Taxing Authority.

(a) The taxpayer shall have at least thirty (30) calendar days from the mailing date to respond to requests for information by a local taxing authority. The local taxing authority shall grant additional reasonable extensions upon application for good cause. Such applications for extension shall be submitted in writing to the Board of Supervisors prior to the expiration of said thirty (30) day period and shall specify the reasons for the requested extension and the facts supporting those reasons.

(b) The local taxing authority shall review and respond to an application for extension within fifteen (15) days of receipt of written request of the application for extension. If the request is granted, the Township shall inform the taxpayer of the number of days of the extension. If the request is denied, the taxpayer shall immediately provide the Township with the requested information. Failure to respond to the written request for extension within said fifteen (15) day period shall be deemed the grant of a thirty (30) day extension, which shall be subject to additional applications for extension.

(c) A local taxing authority shall take no lawful action against a taxpayer for the tax year in question until the expiration of the applicable response period, including extensions.

Section 5. Administrative Appeals. The administrative process for appeals shall consist of review and decision or hearing and decision by a local tax appeals board appointed by the Board of Supervisors from time to time. The appeals board shall consist of three (3)

LOCAL TAXPAYERS BILL OF RIGHTS

members. The members of the local tax appeals board shall be residents of the Township and shall receive no compensation for their service on the local tax appeals board.

Section 6. Petitions.

(a) Filing. A petition is timely filed if the letter transmitting the petition, addressed to the Township Secretary at the Township offices located at 421 Broad St., Pittston, Pa 18640 is postmarked by the United States Postal Service on or before the final day on which the petition is required to be filed. Deadlines for filing petitions to the Board of Supervisors are as follows:

(1) Refund petitions shall be filed within (3) three years after the due date for filing the report, as extended, or one (1) year after actual payment of an eligible tax, whichever is later. If no report is required, the petition shall be filed within three (3) years after the due date for payment of an eligible tax or within one (1) year after actual payment, whichever is later.

(2) Petitions for reassessment of an eligible tax shall be filed within ninety (90) days of the date of the assessment notice.

(b) Contents. The Petition shall contain all information required by the form which is attached to the Disclosure Statement as Exhibit "A".

Section 7. Decisions: Decisions on petitions submitted under Section 6 of this Ordinance shall be issued within sixty (60) days of the date a complete and accurate petition is received by the Board of Supervisors. Failure to file a timely appeal to the Court of Common Pleas of Luzerne County within said sixty (60) day time period shall be deemed waiver of all rights of said taxpayer to further appeal.

Section 8. Appeals. Any person aggrieved by a decision under this Ordinance who has a direct interest in the decision shall have the right to appeal to the Court of Common Pleas of Luzerne County, Pennsylvania within thirty (30) days of the adverse decision denying the Petition. Failure to file an appeal to the Court of Common Pleas of Luzerne County, Pennsylvania within said thirty (30) day time period shall be deemed waiver of all rights of said taxpayer to further appeal.

Section 9. Enforcement.

(a) Collection of Tax. The Township may pursue any and all legal remedies prescribed by applicable federal, state and local laws, statutes, ordinances, rules and regulations, including but not limited to the filing of a civil lawsuit for collection of the delinquent tax and/or the filing of a municipal lien, in order to collect the delinquent tax and all accrued interest and penalties thereon.

(b) Interest and Penalties. In the event a taxpayer fails to make payment of any eligible tax, interest shall accrue at the highest legal rate permitted by law. In addition, the taxpayer may be subject to penalties for failure to pay eligible taxes when due as

LOCAL TAXPAYERS BILL OF RIGHTS

(c) prescribed by applicable federal, state and local laws, statutes, ordinances and regulations.


Section 10. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of the Township of Pittston that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 11. All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance.

Section 12. This Ordinance shall become effective five (5) days after the date of enactment.

DULY ENACTED AND ORDAINED this ^{28th} day of *July*, 2011

TOWNSHIP OF PITTSTON



John Bonita



Ron Marcellini



Steve Rinaldi



Joseph Adams

PETITION REQUIREMENTS

1. Filing. A petition is timely filed if the letter transmitting the petition, addressee to the Township Secretary of the Township of Pittston offices located at 421 Broad St., Pittston, Pa 18640 is postmarked by the United States Post; Service on or before the final day on which the petition is required to be filed. Deadlines for filing petitions to the Township Board of Supervisors are as follows:

(a) Refund petitions shall be filed within (3) three years after the due date for filing the report, as extended, or one (1) year after actual payment of an eligible tax, whichever is later. If no report is required, the petition shall be filed within three (3) years after the due date for payment of an eligible tax or within one (1) year after actual payment, whichever is later.

(b) Petitions for reassessment of an eligible tax shall be filed within ninety (90) days of the date of the assessment notice.

2. Contents. The Petition shall contain all information required on the reverse side of this form.

3. Practice and Procedure. Appeals shall not be governed by 2 Pa.C.S. Chs. 5 Subch. (B) (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action).

4. Decisions. Decisions on petitions submitted shall be issued within sixty (60) days of the date a complete and accurate petition is received by the Board of Supervisors. Failure to act within sixty (60) days shall result in the petition being deemed approved.

5. Appeals. Any person aggrieved by a decision who has a direct interest in the decision shall have the right to appeal to the Court of Common Pleas of Luzerne County, Pennsylvania within thirty (30) days of the adverse decision denying the Petition. Failure to file an appeal to the Court of Common Pleas of Luzerne County, Pennsylvania within said thirty (30) day time period shall be deemed waiver of all rights of said taxpayer to further appeal.

6. Equitable and Legal Principles to Apply. Decisions may be made according to principles of law and equity.

7. Unsworn Falsification to Authorities. This Petition is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.