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BUREAU POLICY REGARDING LOCAL TAXPAYER'S BILL OF RIGHTS

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.

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 is 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 516 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 subch. 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 THIS BUREAU MAY 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.