

**RESOLUTION NO. 2013 - 08
WEST CONSHOHOCKEN BOROUGH
MONTGOMERY COUNTY, PA**

**A RESOLUTION OF THE BOROUGH OF WEST CONSHOHOCKEN CONFIRMING
AND UPDATING THE BOROUGH'S MERCANTILE TAX REGULATIONS**

WHEREAS, Pursuant to the authority granted by the Local Tax Enabling Act of 1965, the Borough of West Conshohocken ("Borough") timely adopted, by Ordinance No. 278, a Mercantile Tax Ordinance in 1970 ("Ordinance").

WHEREAS, the Ordinance requires those desiring to do business within the Borough to obtain a mercantile license and pay mercantile taxes.

WHEREAS, the imposition, calculation and collection of the mercantile tax is governed by the Ordinance and regulations utilized within the Borough.

WHEREAS, the Borough desires to confirm and update the rules and regulations governing the formal interpretation of the Ordinance.

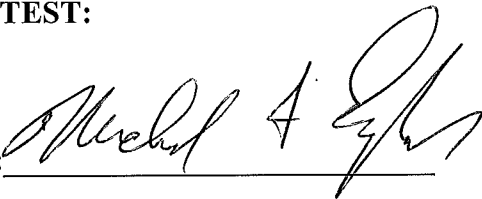
NOW THEREFORE, BE IT RESOLVED, by the Council of the Borough of West Conshohocken as follows:

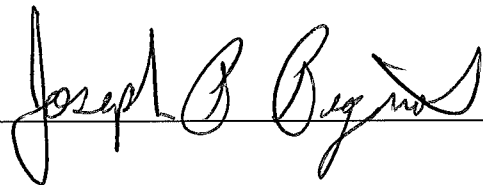
1). The Council for the Borough of West Conshohocken hereby confirms and updates the rules and regulations utilized for the formal interpretation of the Ordinance. Such rules and regulations are attached hereto as Exhibit "A".

ENACTED into a resolution this 13th day of August, 2013.

ATTEST:

WEST CONSHOHOCKEN BOROUGH

By: 

By: 

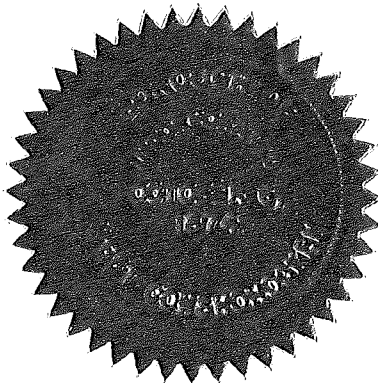


EXHIBIT "A"

**WEST CONSHOHOCKEN BOROUGH
MONTGOMERY COUNTY, PENNSYLVANIA**

MERCANTILE TAX REGULATIONS

Effective Date: June 1, 2013

INTRODUCTION

Persons desiring to do business in West Conshohocken Borough (the "**Borough**") are required to obtain a mercantile license and pay Mercantile Tax.

These Regulations provide a formal interpretation of the Borough's Mercantile Tax Ordinance.

The Regulations shall be interpreted, whenever possible, to be consistent with the Tax Ordinance. In the event that a provision of the Regulations is inconsistent with the Tax Ordinance, the provisions of the Tax Ordinance shall prevail.

THESE REGULATIONS ARE EFFECTIVE AS OF JUNE 1, 2013. THESE REGULATIONS SUPERSEDE ANY PREVIOUS VERSIONS OF MERCANTILE TAX REGULATIONS, INFORMATION BULLETINS, POSITION STATEMENTS OR INTERPRETATIONS.

For additional information or copies, please contact:

West Conshohocken Borough
112 Ford St.
West Conshohocken, PA 19428
(610) 828-9747

TABLE OF CONTENTS

	page
ARTICLE I. Mercantile License	
Section 100. Mercantile License Required	1
Section 101. Fee, Term and Pro-ration	1
Section 102. Posting	1
Section 103. Mercantile License for Branch Establishments	1
Section 104. Assignment and Transfer Prohibited	1
Section 105. Change of Licensee's Address	1
Section 106. Failure to Procure Mercantile License	1
ARTICLE II. Mercantile Tax	
Section 200. Authority	2
Section 201. Definitions	2
Section 202. Who Must File A Return	3
Section 203. Subject and Imposition of Tax	3
Section 204. Base and Rates of Tax	3
Section 205. Exemptions and Exclusions	
A. State Preemption	4
B. Duplicate State Tax	5
C. Governmental Entities	5
D. Tax-Exempt Nonprofit Corporations or Associations	5
E. Manufacturers, Producers, and Processors of By-Products of Manufacture	5
F. Receipts Excluded from Gross Receipts (Exclusions)	7
Section 206. Determination of Gross Receipts; Attribution, Allocation and Apportionment of Gross Receipts	
A. Attribution	8
B. Allocation	8
C. Apportionment	9
D. Taxpayers Subject to the Mercantile Taxes of Other Municipalities	9
Section 207. Interstate Commerce	10
ARTICLE III. Particular Businesses	
Section 300. General Applicability	11
Section 301. Affiliated Companies	11
Section 302. Persons Paying Taxes to Other Municipalities	11
Section 303. Wholesalers and Retailers	11
ARTICLE IV. Declaration and Payment of Tax	
Section 400. Tax Returns	13
Section 401. Extension of Time for Filing Returns	13
Section 402. Filing to be Complete	13
Section 403. Accounting Methods (Cash or Accrual)	13
Section 404. Records to be Kept	13

ARTICLE V. Administration and Enforcement

Section 500.	Disclosure Statement of Taxpayers' Rights and Obligations	14
Section 501.	Verification of Records, Audits, Response Periods, Prior Year Returns	
	A. Issuance of Subpoenas to Compel Attendance and Production	14
	B. Minimum Time Periods for Taxpayer Response	14
	C. Inquiry as to Prior Year Returns	14
Section 502.	Procedures for the Conduct of Taxpayer Audits	
	A. Notice of Audit	15
	B. Rescheduling Audit	15
	C. Representation at Audit	15
	D. Use of Estimates	15
	E. Audit Results	15
Section 503.	Examination of Tax Return; Notice of Assessment	
	A. Examination of Tax Return	15
	B. No Tax Return Field	16
Section 504.	Petition for Reassessment	16
Section 505.	Refund of Overpayment; Interest on Overpayment	
	A. Taxpayer Request for Refund of Overpayment	16
	B. Interest on Overpayment	16
	C. Acceptance of Refund Check	17
Section 506.	Abatement of Certain Interest and Penalty	
	A. Errors and Delays	17
	B. Erroneous Written Advice by Borough	17
Section 507.	Installment Agreements	
	A. Termination of Installment Agreement	17
	B. Alteration, Modification or Termination of Installment Agreement	18
	C. Breach of Installment Agreement	18
	D. Prepayment Permitted	18
Section 508.	Payment Under Protest	18
Section 509.	Violations; Interest on Underpayment and Penalties	
	A. Interest on Underpayment	18
	B. Penalty	18
	C. Fine	18
Section 510.	Confidential Nature of Tax Information	19
Section 511.	Dishonored Checks	19
Section 512.	Taxpayer Appeals	
	A. Petitions for Review by Local Tax Hearing Officer	19
	B. Contents of Petition for Review by Local Tax Hearing Officer	19
	C. Deadlines for Filing Petition for Review by Local Tax Hearing Officer	19
	D. Appeals Process and Procedure	20
Section 513.	Judicial Appeal	20
Section 514.	Construction	21
Addendum A	Local Taxpayers Bill of Rights Disclosure Statement	
Addendum B	Petition for Review by Local Tax Hearing Officer	
Addendum C	Initial Refund Claim Procedures and Claim Form	

**ARTICLE I
MERCANTILE LICENSE**

Section 100. Mercantile License Required.

Persons desiring to continue to engage in, or to begin to engage in, the business of wholesale or retail, or wholesale and retail, vendor or dealer in goods, wares and merchandise, and any person conducting a restaurant or other place where food, drink or refreshment is sold in West Conshohocken Borough must obtain a mercantile license from the Collector or Borough Secretary. Applications for a mercantile license must be submitted on or before March 31st of the tax year or prior to commencing business operations in the tax year. Applications may be obtained from the Collector.

Section 101. Fee, Term and Pro-ration.

The license fee is \$10.00 for each tax year. The fee is not reduced *pro rata* by the portion of the license year elapsed in the year procured.

Section 102. Posting.

Mercantile licenses shall be kept and posted in a conspicuous place at each business location operated by the Taxpayer in the Borough.

Section 103. Mercantile License for Branch Establishments.

In the event that a Taxpayer conducts business at more than one location in the Borough, a mercantile license is required for each additional place of business. The fee for each additional license is \$10.00.

Section 104. Assignment and Transfer Prohibited.

Mercantile licenses may not be assigned or transferred. Any purported assignment or transfer shall be void and ineffective.

Section 105. Change of Licensee's Address.

The change of mailing address of a licensee must be reported in writing to the Collector within ten (10) days after such change becomes effective.

Section 106. Failure to Procure Mercantile License.

Persons who engage in a business or occupation or other commercial activity in the Borough without a valid mercantile license are subject to fine and legal action for violating the Mercantile Tax Ordinances and these Regulations.

**ARTICLE II
MERCANTILE TAX**

Section 200. Authority.

The Tax Ordinance was enacted under authority of the Local Tax Enabling Act (Act 511 of 1965), as amended, 53 P.S. §§ 6924.101 et seq.

Section 201. Definitions.

Words used in the Mercantile Tax Ordinances and/or these Regulations, but not defined in the Ordinances, the Regulations, by state statute, or by the Pennsylvania Judiciary, will be interpreted using the common and ordinary meaning afforded to such words in a local tax context.

As used in these Regulations:

“Assessment” means the amount of tax principal, penalty and/or interest determined to be due from a Taxpayer.

“Allocation” of Gross Volume of Business, is the calculation of a share of total Gross Volume of Business for a particular Base of Operations when more than one Base of Operations exists.

“Apportionment” of Gross Volume of Business, is the calculation of a share of Gross Volume of Business to be included in the tax base in conjunction with a Base of Operations with substantial nexus with West Conshohocken Borough. See Section 207 of these Regulations regarding Interstate Commerce for Apportionment formula and applicability.

“Attribution” is the process of specifically identifying Gross Volume of Business directly or indirectly connected to a particular Base of Operations of the Taxpayer.

“Business Activity” means any activity including, but not limited to, the sale of merchandise either at wholesale or retail, engaging in commercial transactions, and/or the operation of a restaurant or other place where food, drinks or refreshments are sold. All businesses, trades, and professions where any merchandise is offered to another are liable for payment of the Mercantile Tax.

“Commonwealth” means the Commonwealth of Pennsylvania.

“Collector” means that person appointed by the Borough Council to administer and collect the Tax.

“Exempt from Tax” or “Exempt” refers to the status of Persons not subject to the Borough’s Mercantile Tax under the laws of the Commonwealth of Pennsylvania, for example, Institutions of Purely Public Charities, Government Entities, or manufacturers with respect to specific Manufacturing operations. See Section 205 of these Regulations. Any Person claiming exemption from tax has the burden to demonstrate his legal right to such exemption.

“Exclusion” refers to certain receipts excluded from Gross Volume of Business and not subject to tax as provided by state law, Ordinance, or these Regulations. Any Person claiming an Exclusion has the burden to demonstrate his legal right to such Exclusion.

"General Public" is one, or a group of any, separate legally recognizable entity or entities.

"Gross Volume of Business" a term used in the Mercantile Tax Ordinance, means the gross amount of cash, credits or property of any kind or nature received in both cash and credit transactions allocable or attributable to the Borough by reason of any sales made (including resales of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares and merchandise or certain services incidental but directly related to the sale of goods, wares or merchandise (such as extended warranty or service/maintenance contracts, delivery/installation charges)) or commercial or business transactions in connection with any business or occupation. Gross Volume of Business may not be reduced or diminished by any cost, expense or reimbursement not expressly authorized under the Ordinances or these Regulations.

"Manufacturing" consists of the application of labor and skill to material whereby the original article or raw material is changed into a new, different and useful article. Whether an article is a manufactured product depends upon whether it has gone through a substantial transformation in form, qualities and adaptability in use from the original material, so that a new article or creation has emerged. See Section 205(F) of these Regulations.

"Person" means any individual, partnership, limited partnership, association, corporation, limited liability company, estate, trust, trustee, fiduciary or any other legally recognized entity, except such as are wholly exempt from taxation under the Act of December 31, 1965, P.L. 1257, as amended (Act 511 of 1965) and The Institutions of Purely Public Charities Act (Act 55 of 1997).

"Retailer" means any person who is a dealer in or vendor of goods, wares and merchandise, who is not a Wholesale Dealer.

"Sale" means the passing or assignment of ownership from the seller to the buyer for a price.

"Tax" means the Mercantile Tax levied by West Conshohocken Borough.

"Tax exempt nonprofit corporation or organization" is an institution that qualifies as a Pennsylvania Purely Public Charity. See Section 205(E) of these Regulations.

"Taxpayer" means a person subject to the Tax. In a case where the Borough is seeking to determine whether a person is subject to Tax, "Taxpayer" also includes such a person.

"Borough" means the West Conshohocken Borough, a political subdivision located in Montgomery County, Pennsylvania.

"Wholesale Dealer" means any person who sells goods, wares and merchandise to dealers in or vendors of goods, wares and merchandise and to no other persons. A Wholesale Dealer sells goods, wares and merchandise to persons who purchase from a Wholesale Dealer for the purpose of reselling the product in the same condition in which it is purchased. See Section 303 of these Regulations.

Section 202. Who Must File a Return.

A. Every Person who has engaged in, conducted, exercised the privilege of, or carried on, a Business Activity in the Borough must file a Mercantile Tax Return. A tax return must be filed whether or not tax is due. Tax returns are filed at the business entity level. In the case of a

partnership, for example, the partnership entity, rather than the individual partners, should file the tax return and pay any tax due.

B. Wholesale and retail vendors or dealers in goods, wares and merchandise of every kind and operators of restaurants and other places where food, drinks or refreshments are sold, are subject to the Mercantile Tax and must file a Mercantile Tax Return.

Section 203. Subject and Imposition of Tax.

The Mercantile Tax is levied upon the privilege of doing business in the Borough. A Person exercises the privilege of doing business by engaging in any commercial transaction or Business Activity in the Borough to promote the sale of goods.

Section 204. Base and Rates of Tax.

A. **Tax Base.** The tax is based on Gross Volume of Business attributable or allocable to doing business in the Borough. Volume of Business from certain activities are excluded or partially excluded from taxation, see Section 205 (*Exemptions and Exclusions*) and Section 207 (*Interstate Commerce*).

B. **Tax Rates.**

1. Wholesale vendor or dealer in goods, wares and merchandise – 1.0 mill (\$1.00 per \$1,000) on each dollar of the Gross Volume of Business during the license year.

2. Retail vendor or dealer in goods, wares and merchandise and all persons engaged in operating restaurants or other establishments where food, drink or refreshment is sold – 1.5 mills (\$1.50 per \$1,000) on each dollar of the Gross Volume of Business during the license year.

3. Wholesale and retail vendor or dealer in goods, wares and merchandise – 1.0 mill (\$1.00 per \$1,000) on each dollar of the gross volume of wholesale business during the license year and 1.5 mills (\$1.50 per \$1,000) on each dollar of the gross volume of retail business during the license year.

Section 205. Exemptions and Exclusions.

Any Person claiming exemption from tax or claiming an exclusion from Gross Volume of Business has the burden to demonstrate his legal right to such exemption or exclusion. A Taxpayer must disclose with its tax return its total Gross Volume of Business and then itemize any claimed exclusions and exemptions, attaching documentation to support the claimed Exclusion.

A. **State Preemption.** Persons with Gross Volume of Business from activity that has been judicially determined to be preempted by the Commonwealth of Pennsylvania may exclude receipts from such activity from the tax base. To date, local taxation has been preempted by the Commonwealth only as to the banking industry, the sale of insurance contracts subject to the Pennsylvania gross premiums tax, the alcoholic beverage industry and harness racing.

Important Note: Preemption does not relieve a Taxpayer from all municipal taxation. Gross Volume of Business that is unrelated to the aspect of Business Activities for which local taxation has been preempted by the Commonwealth

remains subject to tax by the Borough. Taxable activity does not lose its character as such merely through association with preempted activity.

B. Duplicate State Tax. Where the Commonwealth imposes a tax on the same subject matter as is taxed by the Borough, and the Commonwealth tax is measured by the same Gross Volume of Business sought to be taxed by the Borough, the Borough is prohibited from taxing the same subject and receipts. Where the subject and measure of the Borough tax is not identical to the subject and measure of the Commonwealth Tax, there is no duplication of the state tax and the Borough's Tax is not prohibited. Similarly, where the Borough imposes two different taxes that are not identical in subject or measure, a Taxpayer is subject to both taxes.

C. Governmental Entities. Agencies of the government of the United States, the various states, and the Commonwealth, and any political subdivision thereof, are not subject to the Tax.

D. Tax-Exempt Nonprofit Corporations or Associations. A tax-exempt nonprofit corporation or organization is an institution that qualifies as a Pennsylvania Purely Public Charity. To qualify, an organization must pass all parts of the following five-part test.

Specifically, the institution must:

1. Advance a charitable purpose (requires I.R.C. Sec. 501(c)(3) status);
2. Operate entirely free from private profit motive;
3. Donate or render gratuitously a substantial portion of its services;
4. Benefit legitimate subjects of charity; and
5. Relieve the government of some of its burden.

The exemption for such Purely Public Charities is limited to activities connected to the organization's charitable purpose.

The exemption does not apply to activities competing commercially with businesses subject to the tax.

Example: A hospital operates a thrift store for the sale of used clothing. The operation of the thrift store is considered to be unrelated to the hospital's charitable purpose of healthcare. The hospital is required to report the receipts from the thrift store operation on its IRS Form 990T (unrelated business income).

The hospital's Gross Volume of Business from the thrift store operation is subject to tax.

Receipts generated by a Taxpayer from sales to religious, charitable, educational, governmental, or other entities that are exempt are not excluded from taxable Gross Volume of Business.

E. Manufacturers, Producers, and Processors of By-Products of Manufacture. Receipts generated by engaging in the following activities (described more fully below) are not subject to the tax: (i) manufacturing, (ii) producing natural resources or farm products, and (iii) processing of by-products of manufacturing.

1. ***Manufacturing.*** Manufacturing consists of the application of labor and skill to material whereby the original article is changed into a new, different and useful article. Whether or not an article is a manufactured product depends upon whether or not it has gone through a substantial transformation in form, qualities and adaptability in use from the original material, so that a new article or creation has emerged.

Whether an activity constitutes Manufacturing for purposes of the Mercantile Tax depends upon the facts involved and each question is reviewed on a case-by-case basis. Pennsylvania Courts have held that for purposes of local taxes, Manufacturing includes commercial bookbinding, production of apparel, lithography, commercial printing, oil refining, and steel milling. The Courts have determined that Manufacturing does not include: radio and television broadcasting; steel annealing and galvanizing; commercial illustration; work product that is primarily intellectual or clerical in nature (e.g., work of an attorney, architect, computer software engineer, etc.); scrap metal bundling; dyeing and finishing of cloth; purification through pasteurization, filtration and testing for bacteria and impurities; the preparation of potato salad, cole slaw, bread filling, and similar 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.

Whether a particular activity qualifies as "manufacturing" or "processing" under the provisions of the Pennsylvania Capital Stock and Franchise Tax or Sales and Use Tax is not dispositive in determining whether receipts are excludable for purposes of the Mercantile Tax.

2. ***Producing.*** 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 Gross Volume of Business is excluded from the tax.

3. ***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 performed by the original manufacturer or by others.

Example 1: Taxpayer takes molten slag, a waste product discarded by a steel manufacturer, and subjects it to a process that enables the iron component to be separated and sold back to the steel manufacturer.

Taxpayer's activity of processing by-products of manufacturing is not subject to the tax.

Example 2: 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.

Receipts excludable under this section are excluded whether the product is manufactured, produced or processed within or outside of the Borough.

Example: Taxpayer manufactures computer equipment in New York. It then leases or sells the equipment to customers within the Borough.

Receipts from sale or lease of equipment by the manufacturer thereof are not subject to the tax.

A manufacturer's receipts from activities other than Manufacturing are not excluded.

F. Receipts Excluded From Gross Volume of Business (Exclusions). State law or Borough Ordinances provide that the following specified receipts are excluded in the computation of Tax.

1. Cash discounts to purchasers for prompt payment of bills.
2. Charges advanced by a seller for freight delivery or transportation for the purchaser in accordance with the terms of a contract sale of goods, wares or merchandise.
3. Receipts from 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 imposed by the United States of America or by the Commonwealth of Pennsylvania upon third persons (as opposed to taxes imposed on Taxpayer) and collected from such third persons by Taxpayer as Agent for the United States of America or the Commonwealth of Pennsylvania, such as sales tax. Excise, franchise, and other taxes imposed by the United States of America or Commonwealth of Pennsylvania upon Taxpayer may not be excluded.

Example: A Taxpayer operates a full-service gasoline station and convenience store in the Borough. Taxpayer charges and remits to the Commonwealth sales tax on its automobile repair services, as well as on the sale of food and beverages. Taxpayer pays Pennsylvania Capital Stock Tax on its revenue.

Sales tax that the Taxpayer collects on behalf of the Commonwealth may be excluded from Gross Volume of Business. Franchise and excise taxes on gasoline that are imposed on the gasoline manufacturer and are shown at the gasoline pumps are not excluded, since such excise and franchise taxes on gasoline are not imposed upon Taxpayer's customers, Taxpayer does not collect and remitted such taxes to the Commonwealth, and Taxpayer is not charged with the duty of collecting and remitting such taxes. Further, Taxpayer may not exclude the amount of Pennsylvania Capital Stock Tax paid from its Gross Volume of Business.

6. Receipts constituting exchanges between sellers of identical goods, but not to the extent of any additional cash payment accompanying the exchange.

7. Receipts from sales to other sellers in the same line of business as Taxpayer where Taxpayer transfers title or possession at the same price for which Taxpayer acquired the merchandise.

8. Transfers of goods, wares or merchandise between one department, branch or division of a business entity and another department, branch or division of the same legal entity, recorded as interdepartmental transfers.

Section 206. Determination of Gross Volume of Business; Attribution, Allocation and Apportionment of Gross Volume of Business.

The Gross Volume of Business that is reasonably attributable to exercising the privilege of doing business within the Borough is subject to tax. In determining the tax base, the attribution or allocation of receipts and the apportionment of receipts with interstate characteristics, must fairly reflect the Business Activity in the Borough and avoid the possibility of double taxation.

A. Attribution. Attribution is the process of specifically identifying receipts directly or indirectly connected to a particular business location of the Taxpayer.

1. For Taxpayers with multiple locations, Gross Volume of Business resulting from Business Activity managed, controlled or directed from a location in the Borough is attributed to that location. Receipts will be considered attributable to a location in the Borough if any significant aspect of the transaction occurs or arises out of that location. Generally, receipts paid by customers to a particular location will be attributed to that location. A Taxpayer with more than one location must maintain accounting records to support attribution of receipts to the various locations.

2. Gross Volume of Business must be determined through Attribution if possible. If determination of Gross Volume of Business through Attribution is not possible, Gross Volume of Business is determined through Allocation. If Attribution of receipts under this section does not accurately or fairly reflect a Taxpayer's activity connected to a location in the Borough, the Collector may determine Gross Volume of Business using the Allocation or Apportionment formulas.

B. Allocation. Allocation is the calculation of a share of total Gross Volume of Business for a particular location when Taxpayer has more than one location in Pennsylvania and is unable to determine Gross Volume of Business through Attribution. The Allocation formula is based on two factors: property and payroll.

1. **Property Factor:** The numerator of the property factor is the average value of the tangible personal property and real property owned or leased and situated within West Conshohocken Borough and the denominator of the property factor is the average total value of tangible personal property and real property owned or leased by Taxpayer. The values are the average of the property values at the beginning and end of the tax year. For purposes of this calculation, the value of leased property is eight times the annual rental.

2. **Payroll Factor:** The numerator of the payroll factor is payroll for workers connected with the office located in West Conshohocken Borough and the denominator of the payroll factor is Taxpayer's total payroll. For the purpose of computing the payroll factor other forms of compensation must be included when relevant. Other forms of compensation may include:

self-employment income of a proprietor or a single member of a limited liability company, an active partner's share of partnership income, an active member's share of the income of a limited liability company, or an active shareholder's ordinary income from an "S" corporation.

The Property Factor and Payroll Factor are averaged to determine the **Allocation Factor**. Gross Volume of Business to be allocated to the location in West Conshohocken Borough is determined by multiplying Taxpayer's total Gross Volume of Business by the Allocation Factor.

3. The Collector may authorize the use of another objective and measurable basis of Allocation, such as a single factor based on payroll, when unusual circumstances exist that result in an Allocation that does not fairly reflect the activity connected to a location in the Borough. In such circumstances, the Taxpayer must request authorization in writing to use a method of Allocation other than as provided for herein and such authorization is prospective in nature.

C. Apportionment. Apportionment of Gross Volume of Business is the calculation of a share of Gross Volume of Business to be included in the tax base, resulting from interstate activity. See Section 207 of these Regulations regarding Interstate Commerce for Apportionment formula and applicability.

D. Taxpayers Subject to the Mercantile Taxes of Other Municipalities. In order to avoid the possibility of a Taxpayer being subject to a privilege tax on the same receipts in more than one jurisdiction, the Borough generally does not tax a business that has no location in the Borough. In order to be consistent, the Borough does not allow a Taxpayer to exclude receipts generated in another jurisdiction unless (1) the Taxpayer maintains a location in that jurisdiction **and** (2) the Taxpayer actually pays a gross receipts tax to that other jurisdiction and provides documentation evidencing such payment. This is so regardless of whether the other jurisdiction has attempted to impose its tax on Taxpayer's transactions occurring in that jurisdiction.

Section 207. Interstate Commerce.

A. Gross Volume of Business resulting from sales with interstate characteristics is includable in the tax base on an apportioned basis. Transactions with interstate characteristics include the sale and delivery of goods to a non-Pennsylvania buyer.

B. Apportionment of Gross Volume of Business will be made under the following formula:

$$\begin{array}{r} \text{Total Gross} \\ \text{Volume of} \\ \text{Business} \end{array} \quad \times \quad \begin{array}{r} \text{Apportionment} \\ \text{Factor} \end{array} \quad = \quad \begin{array}{r} \text{Gross Volume of Business} \\ \text{Apportioned to Pennsylvania} \end{array}$$

The Apportionment Factor shall be the product of averaging the total of the following percentages:

1. Wages, salaries, commissions, and other compensation in Pennsylvania, as a percentage of total wages, salaries, commissions and other compensation.

Note: For the purpose of computing the payroll factor, other forms of compensation must be included when relevant. Other forms of compensation may include: self-employment income of a proprietor or a single member of a limited liability company, an active partner's share of partnership income, an active member's share of the income of a limited liability company, or an active shareholder's ordinary income from an "S" corporation.

2. Average value of the tangible personal property and real property owned or leased and situated within Pennsylvania as a percentage of total tangible personal and real property owned or leased. For purposes of this calculation, the value of leased property is eight times the annual rental.

3. Gross Volume of Business from Pennsylvania Sales, as a percentage of total Gross Volume of Business from Sales. For purposes of this section, the term Pennsylvania Sales means sales of goods, wares or merchandise to a buyer domiciled in Pennsylvania or delivery of goods, wares or merchandise to a Pennsylvania location.

For Taxpayers whose only location in Pennsylvania is situated in West Conshohocken Borough, the tax base constitutes Gross Volume of Business apportioned to Pennsylvania.

For Taxpayers with more than one location in Pennsylvania, Gross Volume of Business apportioned to Pennsylvania may be further allocated. Refer to Section 206 of these Regulations for provisions governing Attribution or Allocation of receipts between or among multiple Pennsylvania locations.

The Collector, with the approval of the Borough Manager, may authorize unequal weighting of the three factors when unusual circumstances exist such that a straight average results in an apportionment that does not fairly reflect the activity connected to a base of operations in the Borough. In such circumstances, the taxpayer must request authorization in

writing to use an unequal weighting of the factors and the Collector, in his or her discretion but with the approval of the Borough Manager, may grant or deny such authorization in writing. In no event shall any of the three factors be weighted less than 20%.

**ARTICLE III
PARTICULAR BUSINESSES**

Section 300. General Applicability.

Gross Volume of Business of any Taxpayer includes the gross amount of cash, credit or property of any kind or nature received in both cash and credit transactions allocable or attributable to the Borough by reason of any sale made or commercial or business transactions in connection with any business or occupation.

Gross Volume of Business upon which the tax is imposed is undiminished by any costs of doing business, other than as specifically provided in the Ordinance or in these Regulations.

Gross Volume of Business may be measured using the cash or accrual method of accounting, provided the tax return is filed in accordance with the method of accounting used to prepare the Taxpayer's state and federal tax returns.

Section 301. Affiliated Companies.

Receipts from transactions between separate entities, affiliated through direct or indirect common ownership, are included in taxable Gross Volume of Business.

Section 302. Persons Paying Taxes to Other Municipalities.

Where a Taxpayer properly files a tax return and pays a mercantile tax to another local taxing authority, receipts reported to that local taxing authority may be excluded. Taxpayer must provide proof of payment of such taxes.

Section 303. Wholesalers and Retailers.

Receipts from wholesale sales transactions are included in the Mercantile Tax base but taxed at a lower rate than receipts from retail sales transactions. The Mercantile Tax Ordinance defines a Wholesale Dealer as "any person who sells to dealers in or vendors of goods, wares and merchandise and to no other persons."

The test of whether a Person is a Wholesale Dealer/Vendor or Retail Dealer/Vendor is whether his customers buy for the purpose of reselling the product in the exact form in which it is purchased. If the Taxpayer's customer purchases products from the Taxpayer for the purpose of reselling them in the same condition, then Taxpayer is a Wholesale Dealer/Vendor. If, however, the customer purchases products from Taxpayer for the purpose of using or consuming the product or for the purpose of incorporating the product into a different product to be sold, then the Taxpayer is a Retail Dealer/Vendor.

A Taxpayer seeking to have receipts taxed at the wholesale rate has the burden to prove that the transaction that resulted in the receipts qualify as a wholesale transaction, *i.e.*, that the Taxpayer's customer purchased the product for the purpose of reselling it in the same condition in which it was purchased from the Taxpayer.

Example 1: Company D is a distributor of home improvement supplies, such as light fixtures and fans. Company D sells the supplies to Home Stuff, Inc., a large home improvement store. Home Stuff, Inc. sells the supplies to homeowners.

In this scenario, Company D is considered a Wholesale Dealer and its receipts from the sale of light fixtures and fans to the home improvement store are subject to tax at the wholesale rate.

For purposes of the same transactions, Home Stuff, Inc. is considered a Retail Dealer and its receipts from the sale of the light fixtures and fans to home owners are subject to tax at the retail rate.

Example 2: Same scenario as Example 1 except that Home Stuff, Inc. sells light fixtures to a smaller boutique store that resells the light fixtures.

For purposes of this transaction, Home Stuff, Inc. is considered a Wholesale Dealer because it sells the light fixtures in the same condition as when it purchased the light fixtures from Company D and sells them to a customer who will resell them in the same condition. The receipts from this transaction will be taxed at the wholesale rate.

Example 3: Home Stuff, Inc., a home improvement store, sells lumber to a contractor who is building a home. The lumber is incorporated by the contractor into the home that is then sold to a buyer.

The lumber is not sold by the contractor to the home buyer in the same condition as it was when the contractor purchased the lumber from Home Stuff, Inc.; it has been incorporated into a home. In this scenario, the Home Stuff, Inc. is considered a Retail Dealer and receipts from the sale of the lumber to the contractor are taxed at the retail rate.

**ARTICLE IV
DECLARATION AND PAYMENT OF TAX**

Section 400. Tax Returns.

The Mercantile Tax Return is due annually on or before March 31.

Each year's tax has two components: (1) the current year's estimated tax and (2) the prior year's final tax. The current year's tax is estimated based on actual Gross Volume of Business from the immediate prior year. The prior year's final tax is a reconciliation using the actual Gross Volume of Business from the immediate prior year, less the estimated tax paid from the previous year's return.

Persons who have been in business less than one (1) full year must calculate estimated Gross Volume of Business for the current year in accordance with Section 105-33 of the Mercantile Tax Ordinance.

Section 401. Extension of Time for Filing Returns.

West Conshohocken Borough will recognize a valid federal extension of time to file a tax return for Mercantile Tax purposes, and therefore will not impose a penalty for late filing, only so long as all tax is paid to the Borough by the original due date for the tax return, and a copy of the federal extension is submitted by the original due date for the Borough tax return. An extension of time to file a tax return is not an extension of time to pay tax associated with the return. No extension of time to pay tax is allowed. The extension of time to file the tax return shall not exceed seven (7) months from the original due date.

Section 402. Filing to Be Complete.

Tax returns shall be completed in full and certified as true and correct by the Taxpayer. Taxpayers must attach copies of state or federal tax returns, schedules and worksheets, to substantiate the Gross Volume of Business that is reported and to substantiate any claimed exclusions or exemptions. Tax returns that omit proper supporting documentation are considered incomplete and not properly filed.

Section 403. Accounting Methods (Cash or Accrual).

The tax return may be filed on a cash or accrual basis, but the tax return must be prepared in accordance with the method of accounting used for preparation of federal and state tax returns.

Section 404. Records to be Kept.

Every Taxpayer is required to keep such books, accounts and records as will enable the filing of true and accurate declarations and returns. Such books, accounts and records shall be sufficiently complete as to enable the Collector or his/her designee to verify the accuracy of the declarations or tax returns filed. Taxpayers shall preserve all books, accounts and records for a period of not less than seven (7) years.

**ARTICLE V
ADMINISTRATION AND ENFORCEMENT**

Section 500. Disclosure Statement of Taxpayers' Rights and Obligations.

Taxpayers are entitled to receive a written explanation of their rights and obligations with regard to any audit, appeal, enforcement, refund or collection of local taxes by West Conshohocken Borough. The Disclosure Statement is attached hereto as Addendum A. Additional copies are available from the Borough's administrative office.

Section 501. Verification of Records, Audits, Response Periods, Prior Year Returns.

The Collector, or his designee, is authorized to examine any of the books, accounts, papers, and records of any Person or business entity who the Collector reasonably believes has engaged in taxable activity within the Borough, in order to verify the accuracy of any tax return made or, if no tax return has been made, to arrive at a reasonable assessment of the amount of tax, interest, and penalty due.

A. Issuance of Subpoenas to Compel Attendance and Production. The Collector is authorized to issue subpoenas to compel the attendance of Persons deemed by the Collector to be necessary to examine as witnesses, and to compel the production of books, records, and papers relating to any Person or business entity under examination.

B. Minimum Time Periods for Taxpayer Response. Taxpayers shall have at least thirty (30) calendar days from the mailing date to respond to an initial request for information from the Borough. The Collector shall notify any Taxpayer from whom 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 for good cause shown. No action shall be taken against a Taxpayer for the tax year in question until the expiration of the response period, including extensions.

C. Inquiry as to Prior Year Returns. Except as provided below, an initial inquiry regarding a Taxpayer's compliance with the Borough's Ordinances and Regulations 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 Collector or his/her designee determines that the Taxpayer failed to file a tax return, underreported income, or failed to pay a tax for one (1) or more of the tax periods covered by the initial request, subsequent requests for tax returns or supporting information may be made. Subsequent requests will be limited to two (2) additional years (for a total of five (5) years prior to the first date of initial inquiry), unless the Taxpayer filed no tax return or filed a fraudulent return, in which case the Borough may request information for another additional two years (for a total of seven (7) years prior to the first date of initial inquiry). Note, however, that in the event the Collector has sufficient information to indicate that a Taxpayer has failed to file a required tax return or pay tax that was due more than three (3) years prior to the date of the notice, an initial request is not limited to three (3) years and may include as many as seven (7) years prior to the date of the initial inquiry.

Section 502. Procedures for the Conduct of Taxpayer Audits.

The following procedures shall be followed during the conduct of an audit 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 tax years subject to audit;
2. The date, place, and time for the audit to be conducted;
3. A description of the information, books and records to be produced; and
4. The notice as to the availability of the disclosure statement of the Taxpayer's rights and obligations.

B. Rescheduling Audit. The Taxpayer may request that the audit be rescheduled, provided that it is rescheduled within a reasonable time generally not to exceed thirty (30) days.

C. Representation at Audit. The Taxpayer may have a representative present during the audit.

D. Use of Estimates. In the event that the information, books and records provided by the Taxpayer are not sufficient for the purpose of verifying the correct amount of tax, the Collector (or his designee) is authorized by the Ordinance to ascertain the amount of tax due through the use of estimates.

E. Audit Results. In the event a Notice of Assessment 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 503. Examination of Tax Return; Notice of Assessment.

A. Examination of Tax Return. The Collector shall examine every tax return as soon after filing as practical to determine the correct amount of tax according to the filing. If the Collector finds that the amount of tax shown on the tax return is less than the correct amount, the Collector shall notify the Taxpayer in writing of the amount of the underpayment (deficiency) assessed. A Notice of Assessment, whether as a result of an examination of a return, as a result of an audit, or otherwise, shall be in writing and include:

1. The tax period or periods for which the underpayment is asserted.
2. The amount of the underpayment detailed by tax period.
3. The legal basis upon which the Borough has relied to determine that an underpayment exists.
4. An itemization of the revisions made by the Borough to a tax return filed by

the Taxpayer that result in the determination that an underpayment exists.

If the Collector finds that the tax that has been paid by the Taxpayer is more than the correct amount, the Collector shall credit the overpayment against any taxes owed by the Taxpayer to the Borough and shall refund the difference to the Taxpayer, unless the Taxpayer has requested that the funds be held for application to future taxes. Written notice of the application of a credit to a prior year tax delinquency shall be provided by the Collector to the Taxpayer.

B. No Tax Return Filed. If a Taxpayer fails to file any required tax return, the Collector may estimate from any available information, the Taxpayer's Gross Volume of Business and the tax due thereon, and notify the Taxpayer in writing of the amount assessed against the Taxpayer as a deficiency.

Section 504. Petition for Reassessment.

Within ninety (90) days of the date of a Notice of Assessment, the Taxpayer may make a request for reassessment by completing and submitting a Petition for Review by Local Tax Hearing Officer that will be forwarded for decision to a Local Tax Hearing Officer appointed by the Borough. See Section 512 (*Taxpayer Appeals*).

Section 505. Refund of Overpayment; Interest on Overpayment.

A. Taxpayer Request for Refund of Overpayment. Any Taxpayer who has made an overpayment of tax to the Borough may file a written request with the Collector for a refund or credit. A request for refund shall be made within three (3) years of the due date for filing the tax return, or one (1) 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 (1) year after actual payment of the tax, whichever is later. A request for refund shall not be considered complete and filed unless and until all information necessary for the Borough to determine the merits of the request have been received by the Borough.

1. Overpayment on tax return. For purposes of this section, a tax return filed by the Taxpayer with the Borough showing an overpayment of tax shall be deemed to be a written request for a refund unless otherwise indicated on the tax return.

2. Refund request not a Petition for Review by Local Tax Hearing Officer. A request for refund under this section shall not be considered a Petition for Review by Local Tax Hearing Officer and shall not preclude a Taxpayer from submitting a Petition for Review by Local Tax Hearing Officer See Section 512 (*Taxpayer Appeals*).

3. Refund after Notice of Assessment. 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 Borough within one (1) year of the date of the payment.

B. Interest on Overpayment. All overpayments of tax due to the Borough shall bear simple interest from the date of the overpayment until the date of resolution. (See 53 Pa. C.S. § 8426).

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. *Accrual of Interest.* No interest shall be allowed if an overpayment is refunded (or applied against any other tax, interest or penalty due the Borough) within seventy-five (75) days after the last date prescribed for filing the report of the tax liability or within seventy-five (75) days after the date that the Collector notifies the taxpayer that a credit has been determined to be due, whichever is later.

3. *No Interest on Overpayments of Interest and Penalty.* Overpayments of interest or penalty shall not bear any interest.

C. *Acceptance of Refund Check.* The Taxpayer's acceptance of the Borough'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 Borough shall be deemed to be acceptance of the check by the Taxpayer.

Section 506. Abatement of Certain Interest and Penalty.

A. *Errors and Delays.* In the case of any underpayment, the Borough may abate all or any part of interest for any period for the following:

1. Any underpayment of tax finally determined to be due attributable in whole or in part to any error or delay by the Borough 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 Borough has contacted the Taxpayer in writing with respect to the underpayment of tax finally determined to be due or payable.

2. Any payment of a tax to the extent that any error or delay in the payment is attributable to an officer, employee or agent of the Borough being erroneous or dilatory in performance of a ministerial act. The Collector shall determine what constitutes timely performance of ministerial acts.

B. *Erroneous Written Advice by Borough.* The Borough shall abate any portion of any penalty or excess interest attributable to erroneous advice furnished to the Taxpayer in writing by an officer, employee or agent of the Borough, acting in his or her official capacity if:

1. The written advice was reasonably relied upon by the Taxpayer and was in response to specific written request of the Taxpayer; and

2. The portion of the penalty or addition to tax or excess interest did not result from a failure by the Taxpayer to provide adequate or accurate information.

Section 507. Installment Agreements.

In order to facilitate collection, the Borough may, in its sole discretion, enter into a written agreement with a Taxpayer to allow the Taxpayer to pay delinquent taxes, penalties and interest in installments.

A. *Termination of Installment Agreement.* The Borough may terminate any installment agreement if: (a) information provided to the Borough prior to the date of the

agreement was inaccurate or incomplete, or (b) the Borough believes that collection of the tax under the agreement is in jeopardy.

B. Alteration, Modification or Termination of Installment Agreement. If the Borough finds that the financial condition of the Taxpayer has significantly changed, the Borough may alter, modify or terminate the agreement, but only if: (a) notice of the Borough's finding is provided to the Taxpayer no later than thirty (30) days prior to the date of such action; and (b) the notice contains the reasons why the Borough believes a significant change has occurred.

C. Breach of Installment Agreement. The Borough may alter, modify or terminate an installment agreement if the Taxpayer fails to do any of the following:

1. Pay any installment at the time the installment is due under the agreement;
2. Pay any other tax liability at the time the liability is due;
3. Provide a financial condition update as requested by the Borough.

D. Prepayment Permitted. Taxpayer may prepay, in whole or in part, any tax under any agreement with the Borough.

Section 508. Payment Under Protest.

The Collector is authorized to accept "payment under protest" of the amount of tax in order for the Taxpayer to avoid liability for additional interest, penalties, and fines. Further, the Collector may accept partial payment of any amount due without waiver of the Borough's right to collect the balance due.

Section 509. Violations: Interest on Underpayment and Penalties.

A. Interest on Underpayment. If any amount of tax imposed by the Tax Ordinance is not paid on or before the last date prescribed for payment, interest on such amount at the rate of one percent (1%) per month, or fraction of a month, shall be payable for the period from such last date to the date such amount is paid. Except as provided by state law, as reflected in Sections 506.A. and 506.B. (*relating to errors and delays by the Borough and erroneous written advice from the Borough*), interest is mandatory and cannot and will not be abated.

B. Penalty. If any amount of tax imposed by the Tax Ordinance is not paid on or before the last date prescribed for payment, there shall be added to the tax for the taxable year an amount equal to 10 percent (10%) of the amount of the tax due. Except as provided by state law, as reflected in Section 506.B. (*relating to erroneous written advice from the Borough*), penalty is mandatory and cannot and will not be abated.

C. Fine. Any Taxpayer (including any officer, agent, or employee thereof) who knowingly fails to obtain a license, fails to remit any tax due, fails to file complete and correct reports or tax returns when due, or makes a false or fraudulent tax return, may be subjected to a fine not to exceed \$300 per offense and costs of enforcement for each offense, or to imprisonment for a term not exceeding ninety (90) days, or both.

Section 510. Confidential Nature of Tax Information.

Any information obtained by the Collector or any official, agent or employee of the Borough as a result of any audit, tax return, report, investigation, hearing or verification shall be confidential tax information and must be kept confidential by the Borough, except for official purposes or as required otherwise by law.

Section 511. Dishonored Checks.

If any check received in payment of taxes is returned unpaid by the bank, there shall be added to the tax due the sum charged for dishonored checks established by the Borough.

Section 512. Taxpayer Appeals.

A Taxpayer may appeal any assessment, determination or denial of refund of tax by filing a Petition for Review by Local Tax Hearing Officer with the Collector. All Petitions shall be mailed or delivered to: West Conshohocken Borough, ATTN: Borough Secretary, 112 Ford Street, West Conshohocken, PA 19428.

Under the Pennsylvania Local Taxpayer Bill of Rights Act, business tax appeals are not governed by the rules pertaining to practice and procedure of local agencies or judicial review of agency decisions. *53 P.S. § 8432*. Therefore, a Taxpayer is not required to file an appeal to the Local Tax Hearing Officer in order to preserve his ability to defend against an action by the Borough to collect an assessment of delinquent taxes. Where a Taxpayer does file a Petition and a decision is made by the Local Tax Hearing Officer, such decision may be appealed by either party to the Montgomery County Court of Common Pleas for a *de novo* review.

A. Petitions for Review by Local Tax Hearing Officer. Petitions shall be in writing on a form substantially similar to that attached hereto as Addendum B. A Petition is timely filed if the letter transmitting the Petition is postmarked by the United States Postal Service on or before the final day on which the Petition is required to be filed. If hand delivered, a Petition will be deemed to be filed on the date received in the Borough's office at the address shown above.

B. Contents of Petition for Review by Local Tax Hearing Officer. Petitions shall: (1) state the name, address and telephone number of the Taxpayer and Taxpayer's authorized representative (if any), (2) identify the tax and tax period(s) to which the Petition pertains, (3) state the amount of tax appealed and the legal basis for the appeal (*i.e.*, state how or why the assessment is incorrect; or why a refund request should have been granted), (4) provide copies of all supporting documentation and calculations, (5) state whether an oral hearing is requested, and (6) certify under penalty of perjury that the facts in the Petition are true and correct and that the Petition is not filed for purposes of delay.

C. Deadlines for Filing Petition for Review by Local Tax Hearing Officer.

1. A Petition seeking a refund must be filed within three (3) years after the due date for filing the report, or one (1) year after actual payment of 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 the tax or within one (1) year after actual payment, whichever is later.

2. A Petition seeking a reassessment of tax shall be filed within ninety (90) days of the date of the Notice of Assessment.

D. Appeals Process and Procedure. Upon receipt of a timely filed Petition for Review by Local Tax Hearing Officer, the Borough shall: (a) promptly schedule a hearing if a hearing has been requested by the Taxpayer (if a hearing is not requested, the Petition will be determined on the record before the Local Tax Hearing Officer), (b) provide the Taxpayer with a Notice of Hearing (setting forth the time, date, and location of the hearing), and (c) forward the Taxpayer's Petition to the Local Tax Hearing Officer appointed by the Borough. Unless the date of the hearing is agreed upon by all parties, the Collector shall give at least seven (7) days written notice of the hearing to Taxpayer.

1. **Hearings.** Hearings shall be held at the Borough's municipal building, 112 Ford Street, West Conshohocken, PA 19428, unless otherwise directed by the Hearing Officer. Hearings will be informal in nature and technical rules of evidence will not be applicable, except that no person may testify as to matters about which he/she does not have personal knowledge. All persons who testify shall do so under oath.

(a) **Representation.** Taxpayers may appear before the Hearing Officer with or without benefit of representation. Any person seeking to represent a Taxpayer at the hearing must first be so authorized by the Taxpayer in writing. A Taxpayer's representative need not be professionally trained, but should be familiar with the tax ordinances, these Regulations and the facts of the case. A Taxpayer's representative may only testify as to matters about which he/she has personal knowledge.

(b) **Presentation of Evidence.** Evidence may be submitted and considered that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. Testimony shall be under oath or affirmation, administered by the Hearing Officer. Copies or photographs of all records and other exhibits shall be provided to all parties and to the Hearing Officer. Any party may have a recording or a transcript made of the hearing at the party's expense.

(c) **Failure to Appear.** The hearing may proceed in the absence of any party who fails to appear despite notice, but the Hearing Officer's Decision shall not be based solely upon the failure of a party to appear.

2. **Hearing Officer's Decision.** After the conclusion of the hearing, the Hearing Officer shall issue a written Decision to the parties. The Decision is considered timely issued so long as it is mailed, faxed, emailed or otherwise transmitted to the parties on or before the deadline. The deadline to issue a decision is sixty (60) days of the date a complete and accurate Petition is received by the Borough. The parties may jointly waive their rights to a decision within sixty (60) days.

Section 513. Judicial Appeal.

Any person aggrieved by a Decision of the Local Tax Hearing Officer who has a direct interest in the Decision has the right to appeal to the Court of Common Pleas of Montgomery County, Pennsylvania for a *de novo* review.

Section 514. Construction.

If any sentence, clause, or section or part of these Regulations 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, or sections or parts of these Regulations. These Regulations would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

END

ADDENDUM A

WEST CONSHOHOCKEN BOROUGH MONTGOMERY COUNTY, PENNSYLVANIA

LOCAL TAXPAYERS BILL OF RIGHTS DISCLOSURE STATEMENT

It is the obligation of all taxpayers to file all tax returns voluntarily and pay all local business taxes to which they are subject. However, when the duly appointed or elected tax collector determines that a required return has not been filed, or a tax liability has not been paid, the Local Taxpayers Bill of Rights Act (65 P.S. §§ 8421-8438) grants certain legal rights to taxpayers, and imposes obligations on local taxing authorities (such as West Conshohocken Borough) to ensure that equity and fairness guide local governments in the collection of taxes. Additionally, the Local Taxpayers Bill of Rights Act provides local taxing authorities with certain methods to enforce taxpayer obligations. This Disclosure Statement sets forth your rights as a taxpayer in connection with any audit, examination, appeal or refund claim of taxes for West Conshohocken Borough, Pennsylvania (the "Borough") and any enforcement or collection actions on behalf of the Borough.

To obtain forms and/or more information, please visit www.westconshohockenboro.com or contact:

West Conshohocken Borough
112 Ford Street
West Conshohocken, PA 19428
(610) 828-9747

Applicability of Disclosure Statement

This Disclosure Statement applies to all eligible taxes levied by the Borough. For this purpose, eligible taxes do not include real property taxes. The specific eligible taxes levied by West Conshohocken Borough are:

- (1) Mercantile Tax
- (2) Local Services Tax
- (3) Earned Income Tax

Unless expressly provided in the Local Taxpayers Bill of Rights Act, the failure of any person acting on behalf of the Borough to comply with any provisions of this Disclosure Statement, related regulations, or the Local Taxpayers Bill of Rights Act, will not excuse the taxpayer from paying the taxes owed.

Audits or Examinations

If we contact you about your tax return or payment of any eligible taxes, we will send you a letter with either a request for more information or a reason why we believe a change to your return or taxes is required. If we request information, you will have at least thirty (30) calendar days from the date of the mailing to respond. Reasonable extensions of time will be granted upon application in writing for good cause. We will notify you of the procedures to obtain an extension with our initial request for information. In general, our initial inquiry may include taxes required to be paid or tax returns required to be filed during the three (3) years prior to the mailing date of our notice. However, if you have failed to file tax returns in any of the seven (7) years prior to the mailing date of our notice, or if we have sufficient information to indicate that taxes are owed and have not been paid in that period, our initial request may include tax returns or tax due for up to seven (7) years prior to the mailing date of our notice.

If you give us the requested information or provide an explanation, we may or may not agree with you. If we not agree with you, we will explain in writing our reasons for asserting that you owe tax (which we call an "assessment" or "underpayment"). Our explanation will include: (1) the tax period or periods for which the underpayment is asserted; (2) the amount of the underpayment detailed by tax period; (3) the legal basis upon which we have relied to determine that an underpayment exists; and (4) an itemization of the revisions made to your return or report that resulted in our decision that an underpayment exists.

We may require you to provide copies of federal and Pennsylvania tax returns when that information is reasonably necessary for the enforcement or collection of tax and the information is not reasonably available from other sources or the Pennsylvania Department of Revenue. For purposes of Mercantile Taxes, you will be required to provide your federal and or state tax returns because this information is not otherwise available to the Borough.

Appeals of Decisions

If we notify you that you owe more tax and you do not agree with our decision, you may appeal or seek review by filing a Petition for Review by Local Tax Hearing Officer within ninety (90) days of the date of the mailing of the assessment notice. If we file a legal action against you to collect delinquent taxes and you did not file a Petition for Review by Local Tax Hearing Officer, you can still defend against the collection action. If you do file a Petition for Review, the Petition must either be in our hands or postmarked by the U.S. Postal Service within this 90-day period.

The Petition for Review by Local Tax Hearing Officer must explain the legal basis for your position and include all supporting documents. A form for submission of a Petition is available from the Borough. After your Petition is received, we will notify you of a hearing date, if you request a hearing. A decision by the Local Tax Hearing Officer will be made within sixty (60) days of the date your complete and accurate Petition is received, unless you waive the right to a decision within sixty (60) days. If you do not agree with the decision of the Hearing Officer you may appeal to the Court of Common Pleas of Montgomery County.

Refunds

You may file a claim for ("Refund Claim") if you think you paid too much tax (what we call an "overpayment"). You must file the Refund Claim within three (3) years of the due date for filing the return, or one (1) year after actual payment of the tax, whichever is later. If no report or tax return is required for the tax, the Refund Claim must be made within three (3) years after the due date for payment of the tax or within one (1) year after actual payment of the tax, whichever is later. If your Refund Claim relates to amounts paid as a result of notice asserting an underpayment of tax, your request for Refund Claim must be filed within one (1) year of the date of payment.

Refund Claims must be made on forms prescribed by the Borough and must include supporting documentation. You may obtain a form for your Refund Claim by contacting the Borough. You may be asked for certain information needed so that the Borough can determine whether you are entitled to a refund. If you do not provide such information, the Refund request will be deemed incomplete and will either be denied or not acted upon.

If you file a tax return showing an overpayment of tax, we will treat that as a request for refund unless you indicate otherwise. If we do not agree that you are entitled to a refund as shown on your tax return, you may file a Petition contesting the denial of the refund. The Petition must be filed within the same limits that apply for a Refund Claim. Alternatively, you may file a Petition for Review by Local Tax Hearing Officer without first filing a Refund Claim. If you file a Petition and request a hearing, a hearing date will be set after your Petition is received. A decision by Hearing Officer will be made within sixty (60) days of the date your complete and accurate Petition is received.

Enforcement Procedures

Once it has been determined that you owe a tax, we will take action we are legally permitted to take to enforce our claim and collect any taxes owed. Such action may include obtaining additional information from you, auditing your records, entering into an agreement with you as to the disputed amount of tax, or obtaining liens on your property, levies, and seizure and sale of your property in appropriate circumstances. We may enter into a written agreement with you for payment of the tax in installments if we believe that such an agreement will facilitate collection. We impose interest and applicable penalties on the tax you owe, and may also seek to have a court to impose fines for non-compliance.

Tax Information Confidentiality

Information gained by us, or by the Hearing Officer, or any person acting on our behalf, as a result of any audit, return, report, investigation, hearing, appeal or verification is confidential and will be kept confidential by the Borough except where the Borough has an official purpose for disclosure or is required by law, such as in the context of litigation, disclose information.

Taxpayer Comments or Complaints

If you have a comment or complaint about any action relating to Borough's taxes, please contact the Borough Manager at: West Conshohocken Borough, 112 Ford Street, West Conshohocken, PA 19428. The telephone number is (610) 828-9747.

ADDENDUM B

**WEST CONSHOHOCKEN BOROUGH
MONTGOMERY COUNTY, PENNSYLVANIA**

PETITION FOR REVIEW BY LOCAL TAX HEARING OFFICER

This form is to be used by Taxpayers to appeal an Assessment of Tax (other than real property taxes) levied by West Conshohocken Borough (the "Borough") and/or to appeal a denial of a claim for refund of taxes previously paid. Please type or print legibly.

INSTRUCTIONS: You MUST attach a copy of the Notice of Assessment being appealed, or if seeking a Refund, proof that such tax was paid (e.g., copies of tax returns and checks). Petitions appealing a Notice of Assessment must be received by the Borough within ninety (90) days of the date of the Notice of Assessment. Petitions for Refunds must be received by the Borough no later than: (a) three (3) years from of the due date for filing the tax return; or (b) one (1) year after the actual payment of the tax (whichever is later). Petitions filed by mail will be considered filed as of the postmark date. Answer all questions on this form as completely as possible. If an item is not applicable, enter "N/A." Mail or deliver the Petition to: West Conshohocken Borough, ATTN: Borough Secretary, 112 Ford St., West Conshohocken, PA 19428. For additional information, visit www.westconshohockenboro.com or call (610) 828-9747.

SECTION A: TAXPAYER INFORMATION

Proper Legal Name of Business

Trading as (if applicable)

Mailing Address

City

State

Zip Code

Physical Street Address in West Conshohocken Borough – if different from above

City

State

Zip Code

Taxpayer Identification Number: _____

SECTION B: TAX INFORMATION

- 1. Type of Tax: _____
- 2. Tax Years: _____
- 3. Is this a Petition for Refund? _____.

If so, state the amount of refund requested for each tax year:

Tax Year	Amount
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

- 4. Is this Petition for Reassessment of Tax? _____

If so, state the date of the Notice of Assessment: _____.

Please attach a copy of the Notice of Assessment.

State the amount of refund requested for each tax year:

Tax Year	Amount
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

SECTION C: TAXPAYER REPRESENTATIVE INFORMATION

COMPLETE INFORMATION FOR REPRESENTATIVE (if applicable).

Send all correspondence to my representative. I hereby nominate the following as my representative:

Last Name First Name Middle Initial

- My Representative is a/an: ___ Attorney (PA Attorney ID # _____)
- ___ CPA
- ___ Other Tax Advisor

Firm Name: _____

Mailing Address (Number, Street)

City

State

Zip Code

Phone Number: _____ Fax Number: _____

Email Address: _____

I would like copies of all correspondence sent to my representative. YES NO

SECTION D: HEARING REQUEST

Indicate whether you request a hearing. If no choice is indicated, a hearing will not be scheduled and the matter will be determined based on the Petition and record.

_____ I request a hearing on this matter. (Check if Taxpayer desires a hearing in person).

_____ I do not request a hearing on this matter. (If a hearing is not requested, the Decision in this matter will be based on the information contained in this Petition and on the record provided by the Borough. No hearing will be scheduled.)

SECTION F: SIGNATURE AND CERTIFICATION

All Petitions must be signed by the **Petitioner**.

Under penalties prescribed by law, I hereby certify that this petition has been examined by me and that to the best of my knowledge, information and belief, the facts contained in the Petition are true and correct and this Petition is not filed for purposes of delay.

Signature: _____

Print Name: _____

Title: _____

Date: _____

.....

FOR OFFICIAL USE ONLY

Postmark of Petition: _____

Petition Received on: _____

Is Petition timely filed: YES NO (Circle One)

ADDENDUM C

**WEST CONSHOHOCKEN BOROUGH
MONTGOMERY COUNTY, PENNSYLVANIA**

INITIAL REFUND CLAIM PROCEDURES

I. FORM AND CONTENT OF THE REFUND CLAIM

A. The Initial Refund Claim must include the following information:

1. Taxpayer's legal name, mailing address, telephone number, contact person and email address
2. Taxpayer's account number, federal employer identification number (EIN) or social security number (SSN)
3. Type of Tax at issue
4. Tax Year(s) and/or Quarter(s)
5. Name, address, telephone number and email address of authorized representative (if any)
6. Taxpayer's explanation and argument in support of the Refund Claim
7. Signature of Taxpayer

II. DEADLINES FOR FILING

A. Refund Claims – If a Taxpayer determines that he or she has paid a tax to which he or she is not subject, or has overpaid a tax, a Refund Claim for such tax must be filed with the Collector within the following time limits:

1. Refund Claims shall be filed within three (3) years after the due date for filing the report or return, as extended or one (1) year after the actual payment of the tax, whichever is later; and
2. If no report or return is required, the Refund Claim shall be filed within three (3) years after the due date for payment of the tax to be refunded or within one (1) year after actual payment, whichever is later.

B. Timely Filing – A Refund Claim is timely filed if the letter transmitting the Refund Claim is postmarked by the United States Postal Service on or before the final day on which the Refund Claim is required to be filed.

C. Mailing Address – Refund Claims should be mailed to: **West Conshohocken Borough, ATTN: Borough Secretary, 112 Ford St., West Conshohocken, PA 19428.**

**WEST CONSHOHOCKEN BOROUGH
MONTGOMERY COUNTY, PENNSYLVANIA**

INITIAL REFUND CLAIM FORM

Instructions: This form is to be used by Taxpayers seeking an initial claim for refund from West Conshohocken Borough. Taxpayers whose initial refund claim has been denied and are appealing such denial must file a Petition for Review by Local Tax Hearing Officer with the Borough Manager. Attach proof that the tax for which you are seeking a refund was paid. **Mail this form to: West Conshohocken Borough, ATTN: Borough Secretary, 112 Ford St., West Conshohocken, PA 19428.** Refund Claims must be received by the Borough within the later of (a) three (3) years of the due date for filing the tax return; or (b) one (1) year after the actual payment of the tax. Refund Claims filed via U.S. Postal Service are considered filed as of the postmark date. Refund Claims filed by any other method are considered filed on the date received by the Borough. Answer all questions below as fully as possible. If an item is not applicable, enter "N/A."

SECTION A: TAXPAYER INFORMATION

Legal Name of Business Taxpayer Account Number

Trade Name (i.e., doing business as) Federal EIN

Principal's Last Name First Name Middle Initial

Mailing Address

City State County Zip

Telephone Fax Number

Email Address

Physical Address of Business Location (if different from above)

City State Zip

SECTION B: TAX INFORMATION

Type of Tax: _____

Amount of Refund Claim: \$_____

Tax Year(s): _____ Quarter(s): _____

SECTION C: REPRESENTATIVE INFORMATION

If applicable, complete the following information for Taxpayer Representative.

Send all copies of correspondence to my Representative:

Last Name	First Name	Middle Initial
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My Representative is an (check one): Attorney Certified Public Accountant (CPA)
 Other Accountant Other Tax Advisor

Firm Name

Mailing Address

City	State	County	Zip
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Telephone	Fax Number
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Email Address

SECTION D: EXPLANATION OF REFUND CLAIM & ARGUMENT

Explain in detail why the Refund Claim requested above should be granted. Attach additional pages if necessary. Enclose copies of any documents you believe will support your arguments. Refund Claims must be accompanied by proof of payment of the tax.

SECTION E: SIGNATURE

All Refund Claims must be signed by the **Taxpayer**.

Under penalties prescribed by law, I hereby certify that this Refund Claim has been examined by me and that to the best of my knowledge, information and belief, the facts contained in the Refund Claim are true and correct.

Signature: _____

Print Name: _____

Title: _____

Date: _____

