

**BOROUGH OF ST. CLAIR
SCHUYLKILL COUNTY, PENNSYLVANIA**

ORDINANCE NO. 410

**AN ORDINANCE OF THE BOROUGH OF ST. CLAIR,
SCHUYLKILL COUNTY, PENNSYLVANIA, ADOPTING A
LOCAL TAXPAYERS BILL OF RIGHTS**

The Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania (the "Borough"), hereby enacts and ordains as follows:

WHEREAS, Section 1201 of the Borough Code, 53 P.S. §46201, entitled "General Powers", authorizes the Borough to make and adopt ordinances necessary for the proper management, care and control of the Borough, and the maintenance of the health and welfare of the Borough and its citizens; and

WHEREAS, Section 1202 of the Borough Code, found at 53 P.S. §46202, entitled "Specific Powers", authorizes the Borough to adopt ordinances to secure the safety of persons or property within the Borough.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania, in accordance with the general powers permitted by the Borough Code (53 P.S. §46201, et seq.), as follows:

Section 101. Title

This Ordinance shall be known as the "St. Clair Borough Local Taxpayers Bill of Rights Ordinance".

Section 102. Citation

This Ordinance shall be cited as the "St. Clair Borough Local Taxpayers Bill of Rights Ordinance".

Section 103. Scope

This Ordinance is meant to implement the requirements of the Local Taxpayers Bill of Rights within the Provisions of Act 50 of 1998, 53 Pa.C.S.A. §8421-8428.

Section 104. Definitions

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

APPEALS BOARD – The Borough Council of the Borough of St. Clair sitting in Executive Session.

ASSESSMENT – The determination by the Tax Administrator of the amount of underpayment by a taxpayer.

ELIGIBLE TAX – Any of the following taxes specified within the term “eligible tax” under the Local Taxpayers Bill of Rights, including interest and penalties provided by law, when levied by the governing body of the Local Government, but specifically not including any real estate tax:

- (a) Any tax authorized or permitted under the Act of December 31, 1965 (P.L. 1257, No. 511), known as the Local Tax Enabling Act or Act 511.
- (b) Any per capita tax.
- (c) Any occupation, occupation assessment or occupation privilege tax.
- (d) Any tax levied on income.
- (e) Any tax measured by gross receipts.
- (f) Any tax on a privilege.
- (g) Any tax on amusements or admissions.
- (h) Any tax on earned income and net profits.

GOVERNING BODY – Borough Council of the Borough of St. Clair.

HEARING OFFICER – The Hearing Officer appointed by Local Government to hear administrative appeals regarding an Eligible Tax.

LOCAL TAXPAYERS BILL OF RIGHTS – Subchapter C of Act 50 of 1998 of the Pennsylvania General Assembly, 53 Pa.C.S.A. §8421-8428.

PETITION – The Petition for Appeal and Refund described in Section 108 below.

TAX ADMINISTRATOR – The employee, agent, appointed tax collector, elected tax collector, tax collection agency or other person to whom the governing body of the Local Government has assigned or delegated responsibility for the audits, assessment, determination or administration of an Eligible Tax. Under the Local Taxpayers Bill of Rights, this Tax Administrator is also referred to and defined as the local taxing authority. In the case of the Local Government, the Tax Administrator is listed in Forms under Section 120 of this Ordinance.

Section 105. Disclosure Statement and Taxpayer Notice

Any taxpayer contacted by the Tax Administrator regarding the assessment, audit, determination, review or collection of an Eligible Tax will receive a Taxpayer Notice. See Section 120.1. The Notice shall be incorporated into any other correspondence sent to a taxpayer by the Tax Administrator regarding the assessment, audit, determination, review or collection of tax. The Notice shall be substantially in the following form:

You are entitled to receive a Disclosure Statement that sets forth a written explanation of your rights with regard to the assessment, audit, determination, review, appeal, enforcement, refund and collection of any local taxes by calling the Tax Administrator noted in Section 120 of this Ordinance.

You may request a copy in person, by telephone or by mailing a request to the Tax Administrator noted in Section 120 of this Ordinance.

The Disclosure Statement will be made available to taxpayers upon request at no charge to the taxpayer, including mailing costs. In general, the Tax Administrator will make reasonable efforts to supply all taxpayers with a copy of the Disclosure Statement. A form for the St. Clair Borough Disclosure Statement under the Local Taxpayers Bill of Rights is attached as Section 120.2. Borough Council reserves the right to amend this form by resolution, as necessary.

Section 106. Requirements for Requests for Taxpayer Information

Section 106.1. Minimum Time Periods for Taxpayer Response

Section 106.1.1. The taxpayer shall have at least thirty (30) calendar days from the mailing date to respond to requests for information by the Tax Administrator. The Tax Administrator shall grant a reasonable extension upon written application explaining the reason(s) necessitating the extension, which must amount to good cause. If the Tax Administrator denies a request for extension, the Tax Administrator must inform the taxpayer in writing of the basis for the denial and that the taxpayer must immediately

provide the requested information. If the Tax Administrator grants an extension request, he must notify the taxpayer in writing of the amount of extension granted. Generally, an extension will not exceed thirty (30) calendar days in length, and may be less, depending on the circumstances.

Section 106.1.2. The Tax Administrator shall notify the taxpayer of the procedures to obtain an extension in its initial request for information. Please refer to the notice explaining the Request for Extension of Time to Provide Information attached as Section 120.3.

Section 106.1.3. The Tax Administrator shall take no lawful action against a taxpayer for the tax year in question until the expiration of the applicable response period for submission of the information requested, including extensions. For example, the Tax Administrator may not engage in any collection efforts until after expiration of the response period. After expiration of the response period, the Tax Administrator may engage in collection efforts permitted by the Local Taxpayers Bill of Rights and discussed in Section 116 below.

Section 106.2. Requests for Prior Year Tax Returns

Section 106.2.1. Except as provided in Section 106.2.2, an initial inquiry by the Tax Administrator regarding a taxpayer's compliance with any Eligible Tax may include taxes required to be paid or tax returns required to be filed no more than three years prior to the mailing date of the notice.

Section 106.2.2 The Tax Administrator may make an additional subsequent request for a tax return or supporting information if, after the initial request, the Tax Administrator determines that the taxpayer failed to file a tax return, underreported income or failed to pay a tax for one or more of the tax periods covered by the initial request. Generally, however, the Tax Administrator should not make routine requests for additional prior year returns.

Notwithstanding the foregoing, the limitations in Section 106.2.2 above on subsequent requests for prior year returns shall not apply if the Tax Administrator has sufficient information to indicate that the taxpayer failed to file a required return or to pay an Eligible Tax which was due more than three years prior to the date of the notice. Thus, in situations involving failure to file a required return or to pay a required Eligible Tax, the Tax Administrator shall, in his discretion, have the ability to request prior year returns due more than three (3) years prior and supporting information.

Section 106.3. Use of Federal or State Tax Information. The Tax Administrator may require a taxpayer to provide copies of the taxpayer's Federal individual income tax return if the Tax Administrator can demonstrate that the Federal tax information is reasonably necessary for the enforcement or collection of tax and the information is not available from other available sources or the Pennsylvania Department of Revenue. The Tax Administrator may also require a taxpayer to provide copies of the taxpayer's state individual income tax return.

Section 107. Notice of Basis of Underpayment

The Tax Administrator must notify the taxpayer in writing of the basis for any underpayment that the Tax Administrator has determined to exist with respect to any Eligible Tax. The purpose of this notification is for the taxpayer to understand the exact reason why the Tax Administrator believes an underpayment exists. This notification from the Tax Administrator shall be written in a manner calculated to be understood by an average person. The notification must include:

- (a) The tax period or periods (usually measured in calendar years) for which the underpayment is asserted.
- (b) The amount of the alleged underpayment of the Eligible Tax detailed by tax period.
- (c) The legal basis (including any statutory or case law citations) upon which the Tax Administrator has relied to determine that an underpayment of an Eligible Tax exists.
- (d) An itemization of the changes made by the Tax Administrator to a return or report filed by the taxpayer that results in the determination that an underpayment exists. A copy of any revised return or report in the Tax Administrator's file must be provided to the taxpayer.

Section 108. Petitions for Appeals of Assessment or Refund of Taxes Paid

Section 108.1. Filing of Petitions. A taxpayer has the legal right to challenge an assessment or denial of a refund claim under the Local Taxpayers Bill of Rights. However, a taxpayer has a right to one appeal only. If a taxpayer loses an assessment appeal, the taxpayer is not entitled to a second refund appeal after paying the tax. In addition, no administrative appeals are provided for other decisions including, but not limited to, the denial of an extension of time to provide information or the modification or termination of an installment agreement.

The Local Taxpayers Bill of Rights requires political subdivisions to establish appeals procedures. In order to begin the appeals process, the taxpayer must file a complete and timely petition (the "Petition"). A Petition is timely filed if the letter transmitting the Petition is postmarked by the United States Postal Service or actually received on or before the final day on which the Petition is due. Receipts from carriers other than the United States Postal Service are not accepted as proof of timely filing. Deadlines for filing a petition are as follows:

Section 108.1.1. Petitions challenging the denial of a refund shall be filed within three years after the due date for filing the report or return as extended or one year after actual payment of the tax, whichever is later. If no report or return is required, the Petition shall be filed within three years after the due date for payment of the Eligible Tax or within one year after actual payment, whichever is later.

Section 108.1.2. Petitions for reassessment of tax shall be filed within ninety (90) days of the date of the assessment notice which has been sent to the taxpayer by the Tax Administrator.

Section 108.2. The Tax Administrator shall make available a form of Petition for Appeal and Refund attached as Section 120.4.

Section 108.3. Contents. Any Petition filed under Section 108 shall (1) state the legal basis for claiming the refund or disagreeing with the Tax Administrator's assessment; (2) state the tax period or periods (i.e., years) to which it pertains; (3) state the amount of the claim and the type of Eligible Tax detailed by tax period; (4) include all supporting documentation and calculations; (5) provide the name, address and telephone number of the taxpayer's representative, if any; (6) include a statement certifying that the facts in the Petition are true and correct, under penalty of perjury, and that the Petition is not filed for purposes of delay; and (7) include such other information (essentially identification) as is reasonably requested by the Tax Administrator on the Petition for Appeal and Refund provided to taxpayer.

Section 108.4. Hearing/Appeal on Record. The taxpayer shall have his or her Petition decided by Borough Council acting in Executive Session based solely on the Petition and record (including information on file and information submitted by the taxpayer). No hearing, oral testimony or oral argument is required, but can be requested by the taxpayer. The Governing Body may choose to grant a hearing in its sole discretion.

Section 109. Conduct of Appeals/Hearings

Section 109.1. A taxpayer may or may not choose to be represented by a taxpayer representative. The taxpayer representative may be a lawyer, certified public accountant, accountant or other tax advisor possessing appropriate tax training to represent taxpayers in tax appeals. The taxpayer must submit a written authorization to use a taxpayer representative. However, a simple letter signed by a taxpayer authorizing representation will be accepted as authorization. Such authorization shall include the representative's name, address and telephone number.

Section 109.2. Copies of notices or communications may be sent by the Tax Administrator or other representative of the political subdivision to the taxpayer's representative. However, the original notice or communications will always be sent directly to the taxpayer. Action taken by the taxpayer's authorized representative (for example, requesting an extension of time or submitting factual information) shall have the same force or effect as if taken directly by the taxpayer.

Section 109.3. Borough Council's final decision shall be in writing and signed by the presiding officer. The final decision shall be mailed to the taxpayer, with a copy also mailed to the taxpayer's authorized representative (if any).

Section 110. Refunds

Section 110.1. A taxpayer who has paid an Eligible Tax may file a written request for refund or credit. See Section 120.5. A request for refund shall be made within three years of the due date, as extended, for filing the report or tax return, or one year after actual payment of the tax, whichever is later. If no report is required, the request shall be made within three years after the due date for payment of the tax or within one year after actual payment of the tax, whichever is later.

Section 110.2. A tax return filed by the taxpayer showing an overpayment shall be deemed to be a written request for a cash refund unless otherwise indicated on the tax return.

Section 110.3. A request for refund under this Section 110 shall not be considered a Petition under Section 108 and shall not preclude a taxpayer from submitting a Petition under Section 108.

Section 110.4. 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 within one year of the date of payment.

Section 111. Interest on Overpayment

Section 111.1. General Rule. All overpayments of an Eligible Tax made to the Local Government shall bear simple interest from the date of overpayment of such Eligible Tax until the date of resolution.

Section 111.2. Interest Rate. Interest on overpayments shall be paid at the same rate as the Commonwealth of Pennsylvania 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 (72 P.S. § 1 et seq.). As of December 1998, this interest rate is currently 9% annually (.00247% daily).

Section 111.3. Exceptions to Payments of Interest.

Section 111.3.1. No interest shall be paid if an overpayment is refunded or applied against any other Eligible Tax, interest or penalty due to the Local Government within seventy-five (75) days after the last date prescribed for filing the report or tax return of the tax liability or within seventy-five (75) days after the date the return or report of the liability due is filed, whichever is later.

Section 111.3.2. Interest is not required to be paid on taxpayer overpayments of interest or a penalty(ies).

Section 111.4. Acceptance of Refund Check. The taxpayer's acceptance of a refund check from the Tax Administrator or political subdivision shall not prejudice any right of the taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check by the Local Government shall be deemed to be acceptance of the check by the taxpayer for purposes of this Section 111.4.

Section 111.5. Definitions. As used in this Section 111, the following words and phrases shall have the meanings given to them in this Section 111.5:

"Date of overpayment" shall mean the later of the date paid or the date the tax is deemed to have been overpaid as follows:

- (1) Any 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, determined without regard to any extension of time for filing.
- (2) Any amount overpaid as estimated tax for the tax period shall be deemed to have been overpaid on the last day for filing the final report for the tax period, determined without regard to any extension of time for filing.
- (3) An overpayment made before the last day prescribed for payment shall be deemed to have been paid on the last day.
- (4) Any amount claimed to be overpaid with respect to which a lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid sixty (60) days following the date of initiation of the review or procedure.
- (5) Any amount shown not to be due on an amended income or earned income and net profits tax return shall be deemed to have been overpaid sixty (60) days following the date of filing of the amended income tax return.

“Date of resolution” shall mean the date the overpayment is refunded or credited as follows:

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

Section 112. Abatement of Certain Interest and Penalty

Section 112.1. Errors and Delays. The purpose of this provision is to provide, in the discretion of the Tax Administrator, a mechanism to abate (i.e., reduce) interest and/or penalties where an underpayment is the result of an error or delay in performance by a representative of the Tax Administrator. Accordingly, in the case of any underpayment, the Tax Administrator, in its discretion, may offer to abate all or any part of the interest relating to an Eligible Tax for any period for any one or all of the following reasons:

Section 112.1.1. Any underpayment of an Eligible Tax finally determined to be due, which is attributable in whole or in part to any error or delay by the Tax Administrator in the performance of a ministerial act. For purposes of this paragraph, an error or delay shall be taken into account only if no significant aspect of the error or delay can be attributed to the taxpayer and after the Tax Administrator has contacted the taxpayer in writing with respect to the underpayment of tax finally determined to be due or payable.

Section 112.1.2. Any payment of an Eligible Tax to the extent that any error or delay in the payment is attributable to an officer, employee or agent of the Tax Administrator being erroneous or dilatory in performance of a ministerial act.

The Tax Administrator shall determine what constitutes timely performance of ministerial acts performed under this Section 112.1.

Section 112.2. Abatement of Any Penalty or Excess Interest Due to Erroneous Written Advice by the Tax Administrator. The Tax Administrator 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 Tax Administrator acting in the officer's, employee's or agent's official capacity if:

- (1) The written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer; and
- (2) The portion of the penalty or addition to tax or excess interest did not result from a failure by the taxpayer to provide adequate or accurate information to the Tax Administrator.

Notwithstanding the foregoing, it shall be in the sole discretion of the Tax Administrator whether or not to provide written tax advice to a taxpayer. Taxpayers shall not have any right to compel the Tax Administrator to provide written tax advice.

Section 113. Application of Payments

Unless otherwise specified by the taxpayer, all voluntary payments of an Eligible Tax shall be prioritized by the Tax Administrator in the following order:

- (a) Tax
- (b) Interest
- (c) Penalty
- (d) Any other fees or charges

Section 114. Installment Agreements

The Tax Administrator has the discretion to enter into written agreements with any taxpayer under which the taxpayer is allowed to satisfy liability for tax in installment payments if the Tax Administrator determines that the installment agreement will facilitate collection.

Section 114.1. Extent to Which Installment Agreements Remain in Effect

Section 114.1.1. Except as otherwise provided in this Section 114.1.1., any installment agreement entered into by the Tax Administrator under this Section 114 shall remain in effect for the term of the agreement.

Section 114.1.2. The Tax Administrator may terminate any prior installment agreement entered into under this Section 114 if:

Section 114.1.2.1. Information which the taxpayer provided to the Tax Administrator prior to the date of the installment agreement was inaccurate, false, erroneous or incomplete in any manner, determined in the reasonable discretion of the Tax Administrator; or

Section 114.1.2.2. The Tax Administrator reasonably believes and has determined that collection of the Eligible Tax under the installment agreement is in jeopardy.

Section 114.1.3. If the Tax Administrator finds that the financial condition of the taxpayer has significantly changed, the Tax Administrator may unilaterally alter, modify or terminate the installment agreement, but only if the following conditions are satisfied:

Section 114.1.3.1. The Tax Administrator provides a notice of its findings to the taxpayer no later than thirty (30) days prior to the date of change of the installment agreement; and

Section 114.1.3.2. The notice given by the Tax Administrator to the taxpayer provides the reasons why the Tax Administrator believes that a significant change, justifying a change to the installment agreement, has occurred.

Section 114.1.4. The Tax Administrator may unilaterally and without notification alter, modify or terminate an installment agreement entered into by the Tax Administrator under this Section 114 if the taxpayer fails to do any of the following:

Section 114.1.4.1. Pay any installment at the time it is due under the installment agreement;

Section 114.1.4.2. Pay any other liability relating to an Eligible Tax at the time the liability is due;

Section 114.1.4.3. Provide a financial condition update as requested by the Tax Administrator.

Section 114.1.5. No administrative appeal is permitted in the event of an alteration, modification or termination of an installment agreement. However, an appeal may be made to the Court of Common Pleas of this county.

Section 114.2. Prepayment Permitted. Nothing in this Section 114 shall prevent a taxpayer from prepaying in whole or in part any Eligible Tax under any installment agreement with the Tax Administrator.

Section 115. Confidentiality of Tax Information

Any information obtained by the Tax Administrator or the Appeals Board, or any of their respective officers, agents, legal counsel, financial accountants or employees as a result of any audit, assessment, return, report, investigation, hearing, appeal or verification of a taxpayer shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for such persons to:

- (a) Divulge or make known in any manner any confidential information obtained through any audit, return, assessment, investigation, report, investigation, appeal, hearing or verification of a taxpayer to any person other than the taxpayer or the taxpayer's authorized representative.
- (b) Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person other than the taxpayer or the taxpayer's authorized representative.
- (c) Print, publish or make known in any manner any confidential tax information of a taxpayer.

An offense under this Section 115 is a misdemeanor the third degree and, upon conviction thereof, a fine of not more than \$2,500.00 and costs, or a term of imprisonment for not more than one year, or both, may be imposed on the offender. If the offender is an officer or employee of the Tax Administrator or the Appeals Board, the officer or employee shall be dismissed from office or discharged from employment.

Section 116. Collections

If after the decision of an appeal, or if no appeal is requested by a taxpayer, the Tax Administrator may engage in efforts to collect any Eligible Tax determined to be legally due. Such efforts may include, but shall not be limited to, obtaining additional information, auditing taxpayer records, compromising the amount of tax, interest, or penalty owed, obtaining liens on the taxpayer's property, or obtaining wage attachments, levies and seizures of the taxpayer's property. As provided in Section 114 of these Regulations, the Tax Administrator may enter into a written installment agreement with the taxpayer if the Tax Administrator determines that an installment agreement will facilitate collection. The Tax Administrator also reserves the right to seek criminal prosecution of a taxpayer in appropriate circumstances.

Section 117. Severability

The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect, impair or invalidate any of the remaining sections, clauses, sentences, parts or provisions of this ordinance. It is hereby declared to be the intent of St. Clair Borough Council that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

Section 118. Repealer

Any prior ordinance imposing a tax on earned income or net profits of individuals is amended and restated in its entirety to read as stated in this Ordinance. Any other prior ordinance or part of any prior ordinance conflicting with the provisions of this Ordinance is rescinded insofar as the conflict exists. To the extent that this Ordinance is the same as any ordinance in force immediately prior to adoption of this Ordinance, the provisions of this Ordinance are intended as a continuation of such prior ordinance and not as a new ordinance. If this Ordinance is declared invalid, any prior ordinance levying a similar tax shall remain in full force and effect and shall not be affected by adoption of this Ordinance. If any part of this Ordinance is declared invalid, the similar part of any prior ordinance levying a similar tax shall remain in effect and shall not be affected by adoption of this Ordinance. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish any offense under the authority of any ordinance in force prior to adoption of this Ordinance. Subject to the foregoing provisions of this Section, this Ordinance shall amend and restate on the Effective Date any ordinance levying a tax on earned income or net profits in force immediately prior to the Effective Date.

Section 119. Effective Date.

This Ordinance shall become effective five (5) days after the adoption hereof.

Section 120. Forms/Fees

Section 120.1. Taxpayer Notice

Section 120.2. Disclosure Statement Under the Local Taxpayers Bill of Rights

Section 120.3. Request for Extension of Time to Provide Information

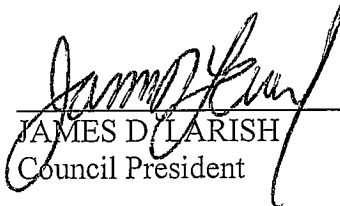
Section 120.4. Petition for Appeal and Refund

Section 120.5. Initial Refund Claim Form

Section 120.6. Amendment. It is the intention of Borough Council that these Forms/Fees may be amended from time to time by resolution rather than by ordinance.


DULY ENACTED AND ORDAINED by Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania, this 2nd day of APRIL, 2013, in lawful session duly assembled.

ST. CLAIR BOROUGH



JAMES D. LARISH
Council President

ATTEST:



ROLAND PRICE, JR.
Borough Secretary

Approved by me this 3rd day of April, 2013.



ROBERT MALEY
Mayor

**IN RE: AN ORDINANCE OF THE BOROUGH OF ST. CLAIR, SCHUYLKILL
COUNTY, PENNSYLVANIA, ADOPTING A LOCAL TAXPAYERS BILL OF RIGHTS**

CERTIFICATION

I hereby certify that the within Ordinance is a true and correct copy of an Ordinance enacted by Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania, on the 2nd day of APRIL, 2013.

SEAL



Roland Price, Jr., Secretary
St. Clair Borough Hall
16 South Third Street
St. Clair, PA 17970
Telephone No. (570) 429-0640

Section 120.1. Taxpayer Notice

TAXPAYER NOTICE

[Form of notification to be included by the Tax Administrator with any assessment, audit, determination, review or collection of an eligible tax.]

Berkheimer Tax Administrator, Inc.
or
Kimberly D. Lutzkanin

**Availability of Disclosure Statement
Pursuant to the Local Taxpayers Bill of Rights**

Taxpayer Name and Address:

Re: [Insert Eligible Tax Subject to Assessment, Audit, Determination Review or Collection]

You are entitled to receive a disclosure statement that sets forth a written explanation of your rights with regard to the assessment, audit, determination, review, appeal, enforcement, refund and collection of local taxes by calling Berkheimer Tax Administrator, Inc. – (610) 588-0965 or Kimberly D. Lutzkanin – (570) 640-7442.

You may request a copy in person, by telephone or by sending a request to the following address: Berkheimer Tax Administrator, Inc., 50 North 7th Street, Bangor, PA 18013 or Kimberly D. Lutzkanin, 29 North Second Street, P.O. Box 219, St. Clair, PA 17970.

Section 120.2. Disclosure Statement Under the Local Taxpayers Bill of Rights

ST. CLAIR BOROUGH

16 South Third Street
St. Clair, PA 17970
Phone: (570) 429-0640
Fax: (570) 429-2829

Disclosure Statement Under the Local Taxpayers Bill of Rights

It is the obligation of all taxpayers to voluntarily file all local tax returns and pay all local taxes to which they are subject. However, when the duly appointed or elected tax collector or tax collection agency for the municipality and/or school district in which the taxpayer resides determines that a required return has not been filed, or a tax liability has not been paid, the Local Taxpayers Bill of Rights grants certain legal rights to taxpayers, and imposes obligations on taxing authorities to ensure that equity and fairness guide local governments in the collection of taxes. In addition, the Local Taxpayers Bill of Rights provides the local government entity with certain legal 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 St. Clair Borough, and any enforcement or collection actions taken by the Tax Collector or Tax Administrator on behalf of St. Clair Borough.**

Applicability/Eligible Taxes

This Disclosure Statement applies to all eligible taxes levied by St. Clair Borough. For this purpose, eligible taxes do not include real property taxes. The specific eligible tax(es) levied by St. Clair Borough are: (1) _____; (2) _____; and (3) _____. **[Insert specific eligible taxes as applicable.]** Unless expressly provided in the Local Taxpayers Bill of Rights, the failure of any person acting on behalf of the Tax Administrator to comply with any provisions of this Disclosure Statement, related regulations or the Local Taxpayers Bill of Rights will not excuse the taxpayer from paying the taxes owed.

Audit 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 may be needed. If we request information, you will have 30 calendar days from the date of the mailing to respond. Reasonable extensions of such time will be granted upon application for good cause. We will notify you of the procedures to obtain an extension with our initial request for tax information. Our initial inquiry may include taxes required to be paid or tax returns required to be filed no more than three 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 do not agree with you, we will explain in writing our reasons for asserting that you owe us tax (which we call "an 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 by us to your return or report that results in our decision that an underpayment exists. If you agree with our changes, you should pay the additional tax.

Requests For Prior Year Returns

An initial request by the Tax Administrator into prior year returns may cover tax returns required to be filed as far back as three years prior to the mailing date of the notice. If the Tax Administrator determines that the taxpayer failed to file a tax return, underreported income or failed to pay a tax for one or more of the tax periods covered by the initial request, the Tax Administrator may request additional information. The Tax Administrator may also require a taxpayer to provide copies of federal and Pennsylvania tax returns when the Tax Administrator can show that the taxpayer's federal tax return(s) is(are) reasonably necessary for the enforcement or collection of tax and the information is not available from other sources or the Pennsylvania Department of Revenue.

Appeals Of Decisions

If we notify you that you owe more tax (what we call an "assessment") and you do not agree with our decision, you may appeal or seek review by filing a Petition for reassessment within 90 days of the date of the mailing of the assessment notice. The Petition must either be in our hands or postmarked by the U.S. Postal Service within this 90-day period. Receipts from other carriers (such as Federal Express) are not accepted as proof of delivery.

Your Petition must explain the legal basis for your position and include all supporting documents. For your convenience, a form for submission of a Petition is available at the St. Clair Borough Municipal Building, Attn: Borough Council, 16 South Third Street, St. Clair, Pennsylvania 17970. A decision by the Appeals Board, which is a Governing Body acting in Executive Session, will be made within 60 days of the date your complete and accurate Petition is received. If you do not agree with the decision of the Appeals Board/Governing Body acting in Executive Session, you may appeal to the appropriate Court of Common Pleas of Schuylkill County. You must file your appeal within 30 days after notice of the decision of the Appeals Board/Governing Body acting in Executive Session.

Refunds

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

supporting documentation. You can obtain forms for Refund Claims by contacting us at the St. Clair Borough Municipal Building, 16 South Third Street, St. Clair, Pennsylvania 17970. Your Refund Claim must be filed with us at the St. Clair Borough Municipal Building, 16 South Third Street, St. Clair, Pennsylvania 17970. If you file a tax return showing an overpayment of tax, we will treat that as a request for a cash refund unless you indicate otherwise. If your Refund Claim is denied, you may file a petition contesting the denial of the refund. Any Petition must be filed within the same time limits that apply for a Refund Claim. Alternatively, you may file a Petition for a refund without first filing a Refund Claim. A hearing date will be set after your Petition is received and a decision by the Appeals Board/Governing Body acting in Executive Session will be made within 60 days of the date your complete and accurate Petition is received. The Appeals Petition form must be used to request a review of a Refund Claim denial. Your Petition must be mailed or delivered to the attention of Borough Council at the following address: St. Clair Borough Municipal Building, 16 South Third Street, St. Clair, Pennsylvania 17970.

Enforcement Procedures

Once it has been determined that you owe a tax, we will take all action we are legally permitted to take to enforce our claim. Such action may include obtaining additional information from you, auditing your records, entering into a settlement with you of the disputed amount of the tax, or obtaining liens on your property, wage attachments, levies, and seizures and sales 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 may also impose interest and applicable penalties on the tax you owe, and may seek criminal prosecution of you in appropriate circumstances.

Tax Information Confidentiality

Information gained by the Tax Administrator or the Appeals Board/Governing Body acting in Executive Session as a result of any audit, return, report, investigation, hearing, appeal or verification shall be confidential. However, confidentiality will not preclude disclosure for official purposes, whether in connection with legal proceedings or otherwise, and it will not preclude disclosure to the extent required by applicable law.

Taxpayer Complaints

If you have a complaint about any action relating to the political subdivision's taxes, St. Clair Borough Council may be contacted in writing at the St. Clair Municipal Building, 16 South Third Street, St. Clair, Pennsylvania 17970. This individual will attempt to facilitate resolution of your complaint by working with the appropriate personnel of the Tax Administrator and/or Appeals Board/Governing Body acting in Executive Session. For more information, please contact Berkheimer Tax Administrator, Inc., 50 North 7th Street, Bangor, PA 18013 – (610) 588-0965 or Kimberly D. Lutzkanin, 29 North Second Street, P.O. Box 219, St. Clair, PA 17970 – (570) 640-7442.

Section 120.3. Request for Extension of Time to Provide Information

ST. CLAIR BOROUGH

16 South Third Street
St. Clair, PA 17970
Phone: (570) 429-0640
Fax: (570) 429-2829

Request for Extension of Time to Provide Information

This Notice explains certain rights you have with respect to the request for information. Please read this Notice carefully, as your rights may expire if you do not follow the instructions within prescribed time periods.

Under Pennsylvania law, we are required to allow you 30 calendar days to respond to our request for information. This 30-day period is measured from our date of mailing the request for information. You must respond by either providing our Tax Administrator with the requested information, or requesting an extension of time in which to provide the information that we have requested. If you need an extension of time, please send a written request specifying the reasons for the extension and the facts supporting those reasons to the attention of the following person at the following address: Berkheimer Tax Administrator, Inc., 50 North 7th Street, Bangor, PA 18013 or Kimberly D. Lutzkanin, 29 North Second Street, P.O. Box 219, St. Clair, PA 17970.

A reasonable extension of time will be granted for good cause. Absent extraordinary circumstances, we will grant no longer than a thirty (30) day extension of time. The Tax Administrator will notify you in writing of whether an extension of time has been granted. If the request is granted, the Tax Administrator also will inform you of the amount of the time extension. If your request for an extension of time is denied, the Tax Administrator will inform you of the basis for the denial and that you must provide the requested information immediately.

[NOTE TO TAX ADMINISTRATOR: This Notice must be given to each taxpayer contacted with a request for tax information in connection with the assessment, audit, determination, review or collection of an eligible tax covered by the Local Taxpayers Bill of Rights. This Notice may be sent as a separate document, as provided above, or the language provided above may be incorporated into a request for tax information.]

Section 120.4. Petition for Appeal and Refund

ST. CLAIR BOROUGH

16 South Third Street
St. Clair, PA 17970
Phone: (570) 429-0640
Fax: (570) 429-2829

Petition for Appeal and Refund

Instructions

This form is to be used by taxpayers appealing an assessment of tax by the Tax Administrator or an appeal of a denial of a claim for refund by the Tax Administrator. Please complete Petition using blue or black ink, or type Petition. Attach a copy of the Assessment Notice being appealed, or if seeking a refund, proof that such tax was paid. Mail this Petition to the Appeals Board or Governing Body acting in Executive Session. Petitions appealing an Assessment Notice must be received by the Appeals Board or Governing Body acting in Executive Session within 90 days of the date of the Assessment Notice. Petitions for refunds must be received by the Appeals Board or Governing Body acting in Executive Session within the later of: (a) three years of the due date for filing the return or (b) one year after actual payment of the tax. Petitions filed via U.S. Postal Service are considered filed as of the postmark date. Petitions filed via any other method are considered filed on the date received. Answer all questions below as completely as possible. If an item is not applicable, enter "N/A".

SECTION A: Taxpayer Information

Last Name: _____ First Name: _____ Middle Initial: _____

Street Address: _____

City: _____ State: _____ County: _____ Zip: _____

Phone: _____ Fax: _____

Previous Street Address (if applicable): _____

City: _____ State: _____ County: _____ Zip: _____

Social Security Number: _____

Taxpayer Identification Number: _____

SECTION B: Tax Information

Type of Tax: _____

Is this Petition for a Refund? Yes No If so, what amount? \$ _____

Tax Year: _____ Quarter: _____

School District: _____

Borough: _____ Township: _____

City: _____ Town: _____

County: _____

SECTION C: Tax Representative Information

Complete Information for Representative (*if applicable*)

Send all copies of correspondence to: _____ Representative

Last Name: _____ First Name: _____ Middle Initial: _____

Is Representative an: Attorney Certified Public Accountant Other Accountant
 Other Tax Advisor

Business Name: _____

Street Address: _____

City: _____ State: _____ County: _____ Zip: _____

Phone: _____ Fax: _____

SECTION D: Relief Requested and Arguments

Explain the relief requested: _____

Explain in detail why the relief requested above should be granted. Attach additional pages if necessary. Enclose copies of any documents you feel will support your arguments. Petitions for refund must be accompanied by proof of payment of the tax.

SECTION E: Signature

All Petitions must be signed by Petitioner or an authorized representative. If signed by an authorized representative, written authorization for the representative to sign on Petitioner's behalf must accompany the Petition.

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.

Signature: _____
(Taxpayer or Authorized Representative)

Print Name: _____
(Taxpayer or Authorized Representative)

Title: _____

Date: _____

Administrative Appeal Procedures Applicable to Petitions for Appeal and Refund

I. General

If the taxpayer does not agree with the Local Tax Administrator's (hereinafter "Administrator") assessment or determination of refund claim, the taxpayer may file an appeal by Petition to the Board of Appeals or Governing Body acting in Executive Session requesting a review of the Administrator's assessment determination of refund claim.

II. Obtaining a Hearing

- A. To obtain a hearing, a taxpayer must complete a Petition form and timely file it with the Board of Appeals or Governing Body acting in Executive Session and mail it to the Administrator's address indicated in Section V(D) below. **[Note: The Governing Body acting in Executive Session is not required to provide a hearing to the taxpayer but may decide an appeal based solely on the Petition and record.]**

III. Form and Content of the Petition

- A. The Petition must include all of the following information:
1. Petitioner's name, address, phone number and contact person (if any).
 2. Petitioner's Social Security Number, account number or taxpayer identification number.
 3. Type of Tax.
 4. Tax year and/or quarter.
 5. School district and/or borough, township, city, town or county.
 6. Name, address and phone number of authorized representative (if any).
 7. Relief the Petitioner is requesting.
 8. Petitioner's argument(s) in support of the relief requested.
 9. Signature of Petitioner.

IV. Forwarding Appeal

- A. Upon receipt of the taxpayer's Petition, the Administrator shall forward the Petition immediately to the Board of Appeals or Governing Body acting in Executive Session.
- B. The Board of Appeals or governing Body acting in Executive Session shall issue a written decision on the taxpayer's Petition within 60 days of the date on which a complete and accurate Petition is received from the taxpayer.

- C. In evaluating and making a decision as to any Petition, the Board of Appeals or Governing Body acting in Executive Session shall apply the principles of law and equity.

V. **Deadlines for Filing**

A. Refund Petitions

If a taxpayer determines that he or she has paid a tax to which he or she is not subject, a Petition for refund of the overpaid local tax must be filed with the Administrator.

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

B. Petitions for Reassessment

Any taxpayer who disagrees with an assessment or determination of a local tax may petition the Board of Appeals or Governing Body acting in Executive Session for a re-evaluation of the taxpayer's assessment.

1. Petitions for reassessment of a tax shall be filed with the Administrator within 90 days of the date of the Assessment Notice.

C. Timely Filing

A Petition for refund or Petition for reassessment 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 must be filed.

D. Mailing Address

Petitions shall be mailed to the following address:

St. Clair Borough Municipal Building
Attn: Borough Council
16 South Third Street
St. Clair, PA 17970

Section 120.5. Initial Refund Claim Form

ST. CLAIR BOROUGH

16 South Third Street
St. Clair, PA 17970
Phone: (570) 429-0640
Fax: (570) 429-2829

Initial Refund Claim Form

Instructions

This form is to be used by taxpayers seeking an initial claim for refund from St. Clair Borough. Taxpayers whose initial refund claim has been denied and are appealing such denial must file a Petition for refund with the Appeals Board or Governing Body acting in Executive Session designated to hear appeals. Please complete this form using blue or black ink, or type this form. Attach proof that the tax for which you are seeking a refund was paid. Mail this form to Berkheimer Tax Administrator, Inc., 50 North 7th Street, Bangor, PA 18013 or Kimberly D. Lutzkanin, 29 North Second Street, P.O. Box 219, St. Clair, PA 17970 (hereinafter the "Tax Administrator"). Refund Claims must be received by the Tax Administrator within the later of: (a) three years of the due date for filing the tax return; or (b) one year after actual payment of the tax. Refund Claims filed via U.S. Postal Service are considered filed as of the postmark date. Refund Claims filed via any other method are considered filed on the date received. Answer all questions below as fully as possible. If an item is not applicable, enter "N/A".

SECTION A: Taxpayer Information

Last Name: _____ First Name: _____ Middle Initial: _____

Street Address: _____

City: _____ State: _____ County: _____ Zip: _____

Phone: _____ Fax: _____

Previous Street Address (if applicable): _____

City: _____ State: _____ County: _____ Zip: _____

Social Security Number: _____ Account Number: _____

Taxpayer Identification Number: _____

SECTION B: Tax Information

Type of Tax: _____

Amount of Refund Claim \$ _____

Tax Year: _____ Quarter: _____

School District: _____

Borough: _____ Township: _____

City: _____ Town: _____

County: _____

SECTION C: Representative Information

Complete Information for Representative *(if applicable)*

Send all copies of correspondence to: _____ Representative

Last Name: _____ First Name: _____ Middle Initial: _____

Is Representative an: Attorney Certified Public Accountant Other Accountant
 Other Tax Advisor

Business Name: _____

Street Address: _____

City: _____ State: _____ County: _____ Zip: _____

Phone: _____ Fax: _____

SECTION D: Explanation of Refund Claim and Arguments

Explain in detail why the Refund Claim requested above should be granted. Attach additional pages if necessary. Enclose copies of any documents you feel 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 and be accompanied by the following penalty of perjury statement.

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: _____

Initial Refund Claim Procedures – for Distribution with Initial Refund Claim Form

I. Forms and Content of the Refund Claim.

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

1. Taxpayer's name, address, phone number and contact person (if any).
2. Taxpayer's Social Security Number, account number or taxpayer identification number.
3. Type of tax.
4. Tax year and/or quarter.
5. School district and/or borough, township or city.
6. Name, address and phone number of authorized representative (if any).
7. Taxpayer's explanation and argument(s) in support of the Refund Claim.
8. Signature of taxpayer.

II. Deadlines for Filing.

A. Refund Claims.

If 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 Tax Administrator 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 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 the following address:

Berkheimer Tax Administrator, Inc.
50 North 7th Street
Bangor, PA 18013
or
Kimberly D. Lutzkanin
29 North Second Street
P.O. Box 219
St. Clair, PA 17970