

MONTGOMERY COUNTY TAX COLLECTION COMMITTEE

TCC Tax Appeal Board Regulations

Background. Act 32, § 505(j)(1), 53 P.S. § 6924.505(j)(1), requires the Montgomery County Tax Collection Committee ("TCC") to appoint a board ("**Tax Appeal Board**" or "**Board**") to decide appeals filed by taxpayers, employers, political subdivisions, other tax collectors, and other tax collection committees from determinations made by the Tax Collector appointed by the TCC ("**Tax Collector**") to collect tax within the Montgomery Tax Collection District ("**TCD**"). Contact information for the Tax Collector is set forth in **Exhibit A**. Act 32 § 505(j)(3), 53 P.S. § 6924.505(j)(3), requires the Tax Appeal Board to comply with certain provisions of the Pennsylvania Local Taxpayers Bill of Rights Act, 53 Pa.C.S.A. § 8421, *et seq.* Per 53 Pa.C.S.A. § 8432, the Tax Appeal Board is not governed by the Local Agency Law, 2 Pa.C.S.A. § 551 *et seq.* However, per 53 Pa.C.S.A. §§ 8431 and 8432, the Tax Appeal Board is required to adopt regulations specifying the form and content of tax appeal petitions and governing the practice and procedure for appeals.

These Regulations govern tax appeals. It is important to note that other substantive and procedural rules relating to tax obligations are specified in Act 32, 53 P.S. § 6924.101 *et seq.*, separate TCC Earned Income and Net Profits Tax Regulations, and other applicable law.

ARTICLE I — BOARD ORGANIZATION

SECTION 101 — ETHICS ACT

The Pennsylvania Public Official and Employee Ethics Act, 65 Pa.C.S.A, § 701 *et seq.*, applies to Tax Appeal Board members. Accordingly, each Board member should comply with all provisions of the Ethics Act, including filing with the TCC a Statement of Financial Interests,

SECTION 102 — TAX APPEAL BOARD MEMBERS

The Tax Appeal Board shall be comprised of three (3) regular members and two (2) alternate members appointed by the TCC. A panel of three (3) members shall hear and decide each appeal. If a regular member is unavailable to participate in an appeal, one of the alternate members shall participate in place of the regular member. All Tax Appeal Board members shall be TCC delegates.

SECTION 103 — TAX APPEAL BOARD MEMBER QUALIFICATIONS

No member of the Tax Appeal Board may be an employee, agent, or attorney of the Tax Collector.

SECTION 104 — TERM OF OFFICE

The initial appointed Tax Appeal Board members shall serve until a successor has been appointed, or earlier death, resignation, or removal. Thereafter, each Tax Appeal Board member shall hold office for a term of one (1) year commencing January 1 and until a successor has been appointed, or earlier death, resignation, or removal.

SECTION 105 — CHAIRPERSON/VICE-CHAIRPERSON

The Board shall annually elect a Chairperson who will guide the activities of the Board, and a Vice-Chairperson who will act as the Chairperson in the absence or unavailability of the Chairperson. The Chairperson may direct legal counsel or another designee to act on behalf of the Board. If a regular member is unavailable to participate in an appeal, the Chairperson shall designate an alternate member to participate in place of the regular member.

SECTION 106 — LEGAL COUNSEL

The Board shall be advised by legal counsel. The Board legal counsel will be the TCC solicitor unless the TCC solicitor has a conflict of interest with respect to an appeal, in which case the TCC will appoint other legal counsel to consult the Board regarding the appeal.

ARTICLE II — APPLICABILITY OF REGULATIONS/ELIGIBLE TAXES

SECTION 201 — APPLICABILITY OF REGULATIONS/ELIGIBLE TAXES

The school districts and municipalities included in the TCD are set forth in **Exhibit B**. These school districts and municipalities are referred to in these Regulations as "Taxing Authorities." Exhibit B lists the specific taxes collected by the Tax Collector under the Tax Collection Agreement by and between the TCC and the Tax Collector. These specific taxes are referred to in these Regulations as "Eligible Tax."

ARTICLE III — PETITIONER PROFESSIONAL REPRESENTATION

SECTION 301 — REPRESENTATION

A petitioner may but is not required to be represented by a lawyer, CPA, or other professional. If the petitioner has designated a representative, notices and communications from the Board to the petitioner will be given to the petitioner's representative, and such notices and communications shall have the same effect as if given directly to the petitioner. Action taken by a petitioner's representative shall have the same force and effect as if the action were taken by the petitioner.

SECTION 302 — WRITTEN AUTHORIZATION

The petitioner must authorize the representative in writing to represent the petitioner. The Board will accept a petition signed by the petitioner and listing a representative as such written authorization.

ARTICLE IV — PETITIONS

SECTION 401 — JURISDICTION

Any taxpayer, employer, political subdivision, tax collector, or tax collection committee aggrieved by a Tax Collector determination relating to the assessment, collection, refund, withholding, remittance, or distribution of an Eligible Tax may file a petition with the Board in accordance with these Regulations.

SECTION 402 — FILING DEADLINES

The following rules apply to petitions under these Regulations:

- A. Refund Petitions. A tax refund petition must be filed within the later of: (1) Three (3) years after the due date for filing the return for the Eligible Tax for which the refund is requested; or if no return is required, the due date for payment. (2) One (1) year after actual payment of the Eligible Tax for which the refund is requested. Taxpayers are required, to file a simple written request for a refund prior to filing a formal tax refund petition.

- B. Reassessment Petitions. Petitions for reassessment of an Eligible Tax assessed by the Tax Collector must be filed within ninety (90) days of the date of the assessment notice.
- C. Other Tax Collector Claim Petitions. A petition by another tax collector for a claim with the Tax Collector for distribution of an Eligible Tax which the Tax Collector has not paid or responded within the time required under § 513 of the LTEA, 53 P.S. 6924.513, must be filed within the later of: (1) One (1) year after the claim was filed with the Tax Collector. (2) One (1) year after receipt of the Tax Collector response to the claim,
- D. Other Petitions. All other petitions challenging Tax Collector determinations relating to Eligible Tax must be filed within one (1) year after the petitioner discovers facts that a reasonable person would deem as giving rise to the grounds for challenge set forth in the petition. The Board may request the petitioner provide proof of when such facts were discovered.
- E. Manner of Filing. All petitions will be filed in the manner set forth in **Exhibit C.**
- F. When Filed. The date a petition is deemed filed is determined as set forth under **Exhibit C.**
- G. Untimely Petitions. A petition not filed by the applicable deadline will not be considered by the Board.

SECTION 403 — NUMBER OF COPIES

A petitioner who files a petition by mail (rather than by email) shall file 4 copies of the petition and all attachments with the Board.

SECTION 404 — COPY TO TAX COLLECTOR

Within three (3) days of filing with the Board, a petitioner will provide a copy of the petition and all attachments to the Tax Collector.

SECTION 405 — PETITION FORM

All petitions must be on the form set forth in **Exhibit D.** A simple written request for a refund or a letter disputing a deficiency assessment will not be considered a petition.

SECTION 406 — COMPLETE AND ACCURATE PETITIONS

The petitioner is responsible to ensure a complete and accurate petition is filed. The Board may deem a petition incomplete if either: (1) The Board determines the petition does not satisfy the requirements of these Regulations (including requirements stated in the petition form). (2) The Board determines that it needs additional information to make a decision. If the Board makes such a determination, the Board may ask the petitioner to submit the additional information.

SECTION 407 — BURDEN OF PROOF

The petitioner has the burden of proving that the petitioner is entitled to the relief sought.

ARTICLE V — BOARD DECISION/PROCEDURES

SECTION 501 — LACK OF JURISDICTION

The Board may dismiss a petition by giving written notice to the petitioner and any other party interested in the appeal if any of the following apply: (1) The petition challenges a determination relating to a tax that is not an Eligible Tax. (2) The Board determines for some other reason it does not have jurisdiction.

SECTION 502 — DCED MEDIATION

If a challenge raised in a petition is subject to DCED mediation (whether by agreement of the parties, or mandatory because it is a claim by a Taxing Authority, tax collection committee, or another tax collector involving 10% or greater deviation from taxes received in the prior tax year), the Board will request that the petitioner sign a written waiver of the right to receive a decision within sixty (60) days after filing of the petition, and upon receipt of such written waiver, the Board shall stay its review of the petition until the petitioner notifies the Board that DCED mediation has concluded and notifies the Board of the outcome of such mediation. If the Board receives notice that DCED mediation has resulted in a settlement agreement resolving the petition, the Board shall dismiss the petition. If the Board receives notice that DCED mediation did not result in a settlement agreement addressing all issues raised in the petition, the Board shall address any unresolved issues over which the Board has jurisdiction.

SECTION 503 — INFORMATION REQUESTS

- A. Party Requests. If a party believes additional information is necessary for resolution of the petition, the party shall submit to the Board a written request that the Board require the other party to provide the information. The written request shall include an explanation of the relevance of the information. Board legal counsel will rule on the request. If the request is granted, the party from whom the information is requested shall provide the information by the date specified by Board legal counsel, which shall be no less than 30 days after submission of the request.
- B. Board Requests. If the Board or its legal counsel believes additional information is necessary for resolution of the petition, the Board legal counsel will make a written request for the information, and the party from whom the information is requested shall provide the information by the date specified by Board legal counsel.
- C. Time Extension. A party may request an extension of time within which to respond to an information request. The Board through its legal counsel has sole discretion whether to grant such an extension. As a condition to granting an extension to the petitioner, the Board may require the petitioner to sign a written waiver of the right to receive a decision within sixty (60) days after filing of the petition.

SECTION 504 — EQUITABLE AND LEGAL PRINCIPLES APPLY

Per 53 Pa.C.S.A. § 8435, the Board may make decisions according to principles of law and equity.

SECTION 505 — BOARD VOTING

All decisions of the Board shall be made by a majority of the regular Board members; or if one or more alternates is serving with respect to a particular appeal, a majority of the regular members and alternates serving with respect to the appeal.

SECTION 506 — WRITTEN DECISION

The Board shall dispose of petitions over which it has jurisdiction by written decision dated and signed by a Board member. The written decision may, but is not required to, include an explanation.

SECTION 507 — DECISION TIMING/60-DAY RULE

- A. Taxpayer Petitions. Decisions on petitions from taxpayers relating to the assessment, determination, or refund of an Eligible Tax shall be issued within sixty (60) days of the date a petition that complies with the requirements of these Regulations is filed, unless the petitioner has signed a written waiver of the sixty (60) day time period. If the petitioner complied with all requirements of these Regulations, no waiver has been signed, and the Board fails to issue a decision within the sixty (60) day time period, the petition shall be deemed approved. Notwithstanding the foregoing, if the Board determines that it does not have sufficient information to make a decision on the merits of the petition within sixty (60) days and the petitioner has not signed a waiver, the petitioner will be deemed to have failed to meet the burden of proof, and the petition will be denied. Please note that a simple written request for a refund or a letter disputing a deficiency assessment is not considered a petition for purposes of the 60-day rule or any other part of these Regulations.

- B. Other Petitions. Unless Board legal counsel determines that under applicable law the 60-day rule is not mandated for the petition, decisions on petitions filed by political subdivisions, other tax collectors, and other tax collection committees relating to an Eligible Tax shall be issued within sixty (60) days of the date a petition that complies with the requirements of these Regulations is filed. The petitioner may, however, sign a written waiver of the sixty (60) day time period.

If the political subdivision, tax collector, or tax collection committee petitioner complied with all requirements of these Regulations, no waiver has been signed, Board legal counsel has determined that under applicable law the petition must be decided within sixty (60) days, and the Board fails to issue a decision within the sixty (60) day time period, the petition shall be deemed approved. Notwithstanding the foregoing, if the Board determines that it does not have sufficient information to make a decision on the merits of the petition within the applicable decision deadline and the petitioner has not

signed a waiver, the petitioner will be deemed to have failed to meet the burden of proof, and the petition will be denied.

SECTION 508 — APPEAL RECORD

The Board will retain the appeal records for eight (8) years after the later of its decision or the final decision on any court appeal. Act 32 § 514, 53 P.S. § 6924.514, provides that all information gathered by the Board is confidential. Accordingly, an appeal record is not a "public record" under Section 102 of the Right-to-Know Law, 65 P.S. § 67,102, that is subject to disclosure.

SECTION 509 — RECUSAL

A Board member shall disqualify himself or herself from reviewing, hearing, considering, and deciding an appeal if any of the following apply: (1) The Board member's participation would in any way violate the Pennsylvania Public Official and Employee Ethics Act, 65 Pa.C.S.A. § 1101, *et seq.*, or any other law. (2) The Board member believes that he or she has or might reasonably be perceived to have a conflict of interest.

ARTICLE VI — BOARD HEARINGS

SECTION 601 — BOARD DISCRETION

A petitioner has no right to a hearing at which the petitioner or petitioner's representative appears in person before the Board, and the Board has no obligation to conduct such a hearing. However, the Board may, in its sole discretion, decide such a hearing is necessary or appropriate.

SECTION 602 — HEARING NOTICE

If the Board determines a hearing is necessary or appropriate, the Chairperson or his or her designee will give notice specifying the date, time, and place of the hearing substantially in the form set forth in **Exhibit E**.

SECTION 603 — CONTINUANCES

If the Board schedules a hearing, it may, in its sole discretion, grant a requested continuance. Any continuance request must be in writing and specify reasonable grounds for the continuance. The Board may as a condition to granting a continuance require that the petitioner sign a written waiver of the right to receive a decision within sixty (60) days after filing of the petition.

SECTION 604 — PRIVACY

Board hearings are private and not open to the public.

SECTION 605 — EVIDENCE

The Board need not conduct hearings in strict conformity with the Pennsylvania Rules of Evidence. However, the Board will be guided by the evidentiary principles contained in the Pennsylvania Rules of Evidence, Pennsylvania statutory law, and Pennsylvania common law. Testimony before the Board will always be under oath or affirmation.

SECTION 606 — CONDUCT OF HEARING

The Chairperson or his or her designee shall conduct Board hearings and shall have authority to:

- A. Regulate the conduct of the hearing, including scheduling, recessing, reconvening, and adjournment of hearings, and all acts proper for the efficient conduct of the hearing.
- B. Decide whether to create a transcript or recording of a hearing.
- C. Administer oaths and affirmations.
- D. Require production of books, records, documents, and other pertinent information.
- E. Determine whether testimony over telephone, web conferencing, or other technology will be received in lieu of live testimony.
- F. Determine whether a deposition or affidavit will be received in lieu of oral testimony.
- G. Make other rulings on admissibility of evidence.
- H. Require the parties to file a concise legal brief or memorandum.
- I. Resolve any issue involving interpretation of these Regulations.

ARTICLE VII — APPEALS FROM BOARD DECISIONS

SECTION 701 — APPEALS FROM BOARD DECISIONS

Any person aggrieved by a written decision of the Board disposing of a petition who has a direct interest in the decision has the right to appeal to the Montgomery County Court of Common Pleas within thirty (30) days after the date of the decision being appealed.

ARTICLE VIII — MISCELLANEOUS

SECTION 801 — DISSEMINATION OF REGULATIONS

The Tax Collector shall post a copy of these Regulations on its internet website. The TCC or Tax Collector shall mail or email a copy of these Regulations to any person on written request.

SECTION 802 — PROCEDURAL ERRORS

Notwithstanding any provision of these Regulations to the contrary, the Board may, in its sole discretion and for good cause shown, at any stage of an appeal disregard an error of procedure that does not affect the substantive rights of one or more persons interested in the appeal.

SECTION 803 — CALCULATING DEADLINES

When these Regulations require something to be done within a certain amount of days, the deadline shall be calculated by excluding the first day from the calculation but including the last day, If a calculation under the preceding sentence results in a deadline falling on a weekend or legal holiday, the deadline will be moved forward to the next day that does not fall on a weekend or holiday.

SECTION 804 — PROCEDURAL QUESTIONS

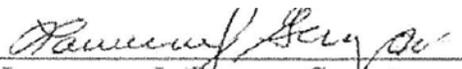
A petitioner or other party may direct procedural questions to Board legal counsel as set forth in **Exhibit F**

Adopted this 17th Day of July 2013.

**Montgomery County Tax Collection
Committee**



H. Charles Wilson, Chairman



Lawrence J. Gregan, Secretary

Attest

Exhibit A

Tax Collector Contact Information

Collector Name: Berkheimer Tax Administrator

Contact Number: (866)-701-7206

Exhibit B

Tax collector collects Earned Income taxes for the following Taxing Authorities

<u>PSD CODE</u>	<u>MUNICIPALITY NAME</u>
460101	ABINGTON TWP
462201	AMBLER BORO
461901	BRIDGEPORT BORO
460201	BRYN ATHYN BORO
460301	CHELTENHAM TWP
461201	COLLEGEVILLE BORO
460401	CONSHOHOCKEN BORO
462102	EAST GREENVILLE BORO
461001	EAST NORRITON TWP
461501	FRANCONIA TWP
462103	GREEN LANE BORO
460501	HATBORO BORO
461102	HATFIELD BORO
461103	HATFIELD TWP
462101	HEREFORD TWP
461109	HILLTOWN TWP
460502	HORSHAM TWP
460601	JENKINTOWN BORO
461104	LANSDALE BORO
461702	LIMERICK TWP
461202	LOWER FREDERICK TWP
462202	LOWER GWYNEDD TWP
460701	LOWER MERION TWP
460801	LOWER MORELAND TWP
461301	LOWER POTTSBORO TWP
460901	LOWER PROVIDENCE TWP
461502	LOWER SALFORD TWP
462104	MARLBOROUGH TWP
461105	MONTGOMERY TWP
460702	NARBERTH BORO
461101	NEW BRITAIN TWP
461002	NORRISTOWN BORO
461106	NORTH WALES BORO
462105	PENNSBURG BORO
461203	PERKIOMEN TWP
460402	PLYMOUTH TWP
461401	POTTSTOWN BORO
462106	RED HILL BORO
460102	ROCKLEDGE BORO
461703	ROYERSFORD BORO
461503	SALFORD TWP
461204	SCHWENKSVILLE BORO
461205	SKIPPACK TWP

461504	SOUDERTON BORO
461701	SPRING CITY BORO
461601	SPRINGFIELD TWP
461505	TELFORD BORO
461107	TOWAMENCIN TWP
461206	TRAPPE BORO
461801	UPPER DUBLIN TWP
461108	UPPER GWYNEDD TWP
462107	UPPER HANOVER TWP
461902	UPPER MERION TWP
462001	UPPER MORELAND TWP
461302	UPPER POTTS GROVE TWP
461704	UPPER PROVIDENCE TWP
461506	UPPER SALFORD TWP
461903	WEST CONSHOHOCKEN BORO
461003	WEST NORRITON TWP
461303	WEST POTTS GROVE TWP
460403	WHITEMARSH TWP
462203	WHITPAIN TWP
460902	WORCESTER TWP
<u>PSD CODE</u>	<u>SCHOOL DISTRICT</u>
460100	ABINGTON SD
460200	BRYN ATHYN SD
460300	CHELTENHAM TOWNSHIP SD
460400	COLONIAL SD
460500	HATBORO-HORSHAM SD
460600	JENKINTOWN SD
460700	LOWER MERION SD
460800	LOWER MORELAND TOWNSHIP SD
460900	METHACTON SD
461000	NORRISTOWN AREA SD
461100	NORTH PENN SD
461200	PERKIOMEN VALLEY SD
461300	POTTS GROVE SD
461400	POTTSTOWN SD
461500	SOUDERTON AREA SD
461600	SPRINGFIELD TOWNSHIP SD
461700	SPRING-FORD AREA SD
461800	UPPER DUBLIN SD
461900	UPPER MERION AREA SD
462000	UPPER MORELAND TOWNSHIP SD
462100	UPPER PERKIOMEN SD
462200	WISSAHICKON SD

Exhibit C

Manner of Filing Petitions

A petition may be filed by any of the following means:

By mail: Sent to the attention of Secretary, Montgomery County Tax Collection Committee, 1 Parkside Place, North Wales PA 19454-2526. A petition delivered by mail will be deemed filed when postmarked by the United States Postal Service.

By e-mail: Sent to the attention of bshapiro@uppergwynedd.org. A petition delivered via e-mail will be deemed filed on the date a complete, accessible, and legible copy of the e-mail is received.

Exhibit D

MONTGOMERY COUNTY TAX COLLECTION COMMITTEE

Tax Appeal Petition

1. Petitioner Information.

<i>If Individual Petition:</i> Name: _____ Address: _____ Phone: _____ SSN*: _____ Email Address: _____	<i>If Employer Petition:</i> Employer Name: _____ Contact Person: _____ Title: _____ Contact Address: _____ Contact Phone: _____ EIN*: _____ Email Address: _____
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*SSN means social security number; EIN means employer identification number

<i>If Political Subdivision Petition:</i> Political Subdivision Name: _____ Contact Person: _____ Title: _____ Contact Address: _____ Contact Phone: _____ Email Address: _____	<i>If Tax Collector or TCC Petition:</i> TCC Name: _____ ▼ _____ Collector Name: _____ Contact Person: _____ Title: _____ Contact Address: _____ Contact Phone: _____ Email Address: _____
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If the petitioner has designated a professional representative under paragraph 16 below, petitioner understands that the Tax Appeal Board will direct notices and communications to the professional representative rather than to petitioner.

Concerning information requested below, the petitioner may provide answers immediately following the applicable question. Alternatively, the petitioner may after the applicable question indicate the answer is provided in an attachment, and provide the appropriate attachment.

2. Please list the type of tax this appeal involves and the school district or municipality that levies or imposes the tax.

3. Please list the amount of tax at issue, the tax year this appeal relates to and, if this is an employer petition, the quarter or monthly payment period to which this appeal relates.

4. Please state what Tax Collector determination, action, or failure to act is being appealed. Attach a copy of any written determination or action.

5. Is this matter subject to mandatory DCED mediation because it is a claim by a Taxing Authority, tax collection committee, or another tax collector involving 10% or greater deviation from taxes received in the prior year?

6. Have you received notice that this matter is subject to mandatory DCED mediation?

7. Is there any agreement with the other party to submit this matter to DCED mediation?

8. If the answer to #5, #6, or #7 above is "Yes," please indicate the status and/or outcome of the mediation.

9. Please attach a copy of any tax return and all other written documents relevant to this matter.

10. Please list here all documents attached to this petition:

11. Please concisely state the relief sought in this petition.

12. Please concisely state all facts relevant to the Board's consideration of this petition.

13. Please concisely state your legal arguments supporting this petition, including citation of relevant statutes, regulations, court cases, or other legal authority.

14. Please concisely state any other information you deem relevant.

15. Do you wish to request a personal hearing at which you or your representative may make a verbal statement — in lieu of relying solely on the information set forth in the petition and attachments?

16. If a professional representative will represent you in connection with this petition, please provide the following:

Representative _____

Name: Title: _____

Address: _____

Phone: _____

Email Address: _____

The petitioner authorizes the Tax Collector and the Tax Appeal Board to release to this professional representative any confidential information relating to the petitioner.

Petitioner Signature and Verification

I verify that the facts set forth in this Tax Appeal Petition are true and correct to the best of my knowledge, information, and belief. This Petition is not filed for purposes of delaying payment of tax or delaying compliance with any other legal obligation. I understand that false statements in this Tax Appeal Petition are punishable under the Pennsylvania Crimes Code, 18 Pa.C.S.A. § 4904.

Date: _____

Petitioner Signature

Exhibit E

Tax Appeal Board Hearing Notice

[Petitioner or Professional Representative
Name and Address]

Re: Appeal of _____

The Tax Appeal Board for the Montgomery County Tax Collection Committee received your Tax Appeal Petition and has decided to hold a hearing on the petition. The hearing is set for _____, 20____, at _____ a.m./p.m. at Pennsylvania.

Questions or requests for a copy of Tax Appeal Board Regulations should be addressed to _____.

**Montgomery County Tax Collection Committee
Tax Appeal Board**

Date: _____ By: _____

Title: _____

Exhibit F

Procedural Questions

Board legal counsel contact information is as follows:

Geoffrey L. Beauchamp, Esq.
Geoffrey L. Beauchamp, P.C.
719 Dresher Road
Horsham, PA 19044-2205
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gblaw@comcast.net