

**Rules and Regulations Governing Practice and Procedure before the Tax Appeals Board of the Lehigh Tax Collection Committee**

**I. Purpose and Scope**

**101. Purpose**

The Lehigh Tax Collection Committee (TCC) has established a Tax Appeals Board (Appeals Board) for the Lehigh Tax Collection District (the "TCD") pursuant to the TCC's Bylaws adopted on December 17, 2009 for the purpose of hearing appeals from the determinations of the Tax Officer relating to the assessment, collection, refund, withholding, remittance or distribution of income taxes. (See Bylaws - Article VII)

**102 Scope and Jurisdiction**

A taxpayer, employer, political subdivision or an another tax collection district may appeal to the Appeals Board a determination of the Tax Officer relating to the assessment, collection, refund, withholding, remittance or distribution of taxes over which the TCC has jurisdiction.

**II. The Tax Appeals Board**

**201. Composition of the Appeals Board, Alternates and Conflicts of Interest**

The Appeals Board shall be comprised of three (3) regular members and two (2) alternate members (a first alternate and second alternate) appointed by the Appeals Board. A panel of three (3) members shall hear and decide each appeal. If a regular member is unable to participate in an appeal due to unavailability or due to a conflict of interest, including but not limited to a conflict as defined under the Ethics Act, 65 Pa. C. S. Ch. 11, the first alternate member shall participate in place of the regular member. If the first alternate member is unavailable for the above reasons, or if two regular members are unavailable for the above reasons, then the second alternate shall serve on the Appeals Board if otherwise qualified. In no case shall an Appeals Board Member serve on the Appeals Board if the member has a conflict of interest that impairs his or her ability to decide an appeal in a fair, impartial and objective manner.

**202. Qualifications of Appeals Board Members**

The Appeal Board members (regular and alternates) shall be primary voting delegates of the TCC. No member of the Appeals Board may be the tax officer, or an employee, agent, or attorney for the tax officer, or an employee, agent or solicitor for the TCC.

**203. Term of Office**

The initial appointed Appeals Board shall consist of three (3) members and three (3) alternate members who shall serve initial, staggered terms of one (1), two (2), and three (3) years each beginning January 1, 2013 and until a successor has been appointed or the earlier occurrence of death, resignation, or removal. Thereafter, each newly appointed Appeals Board member and alternate shall serve a full term of three (3) years commencing January 1st, and until a successor has been appointed or the earlier occurrence of death, resignation, or removal. An Appeals Board member or alternate shall only be removed by the Board of the TCC for just cause, unless the member or alternate is no longer qualified under Section 202 above. In the event of a vacancy, the Board of the TCC shall appoint a replacement member or alternate to fill the unexpired term of the member or alternate whose appointment has been vacated at the next scheduled meeting of the Board of the TCC. In the event an Appeals Board member or alternate is hearing a case that has not been completed as of the end of the Appeals Board member's or alternate's term, the Appeals Board member or alternate shall nevertheless continue to have authority to hear the case through its conclusion provided the member or alternate continues to be otherwise qualified under Section 202 above.

**204. Quorum and Voting Requirements of the Appeals Board**

The presence of three (3) members or alternates of the Appeals Board shall constitute a quorum of the Appeals Board for meeting or hearing purposes. All decisions and rulings on objections to evidence shall be determined by a simple majority vote of the Appeals Board.

**205. Compensation of the Appeals Board**

Unless otherwise prohibited by law, the Appeals Board members and alternates shall be compensated at an hourly rate and for time spent in hearings and for a predetermined number of hours of review per hearing as established by the TCC.

**206. Officers of the Appeals Board**

- (a) The Appeals Board members shall elect amongst themselves a Chairperson and Vice Chairperson.
- (b) The TCC's Executive Director shall act as Secretary to the Appeals Board.

**207. Duties of Appeals Board Officers and Members (Regular and Alternates)**

- (a) The Appeals Board Chairperson shall be responsible for (1) scheduling, recessing, reconvening and adjourning hearings, unless otherwise delegated; and (2) directing, guiding and conducting hearings including the administration of oaths and affirmations to witnesses and requiring the production of records such as those referenced under 53 P.S. §6924.509(f)(4) (relating to records of employers and taxpayers).

(b) The Appeals Board Vice Chairperson shall perform the duties of the Chairperson in the event the Chairperson is unavailable.

(c) The Appeals Board members shall listen to testimony, review documents, ask questions of witnesses and rule on objections to evidence in order to render a decision regarding the subject of the appeal.

(d) The Appeals Board Secretary shall maintain all Appeals Board meeting minutes and Appeals Board records; and if delegated by the Chairperson provide all public notices and notices to its members as required under the Pennsylvania Sunshine Act, 65 Pa.C.S.A. Sec. 701, et seq.; and perform other duties as determined by the Appeals Board.

### **208. Appeals Board Solicitor**

The Appeals Board may appoint a Solicitor, whose expenses will be paid by the TCC, but only to the extent budgeted or otherwise approved. The Appeals Board Solicitor shall attend all meetings and hearings of the Appeals Board unless excused by the Appeals Board Chairperson. The Solicitor shall provide advice and assistance to the full Appeals Board at the direction of any member of the Appeals Board.

### **209. Conflicts of Interest of Appeals Board Solicitor**

The Appeals Board Solicitor shall recuse himself or herself in the event that a conflict of interest arises under the Pennsylvania Rules of Professional Conduct or other statutory or common law conflict of interest law.

## **III. Procedures for Appeals and Hearings.**

### **301. Time Limitations**

An appeal 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 as hereinafter provided. Hand delivered petitions shall be received by the Appeals Board on or before the final day on which the petition is required to be filed. Deadlines for filing petitions are as follows:

(a) A petition for a refund shall be filed within three (3) years after the due date for filing the report or tax return, as extended or one year after actual payment of the tax, whichever is later. If no return or 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.

(b) A petition for a reassessment of the tax shall be filed within ninety (90) days of the date of the assessment notice.

(c) A petition to appeal a collection, withholding, or remittance determination must be filed within one (1) year of the date of the postmark of the notice of such determination.

(d) A petition to appeal a distribution determination must be filed within two (2) years of the date of postmark of the notice of such determination or within two (2) years from the end of the thirty (30) day period provided for the tax officer to respond contained in 53 P.S. § 6924.513(b), whichever is later.

### **302. Requirements for Petitions for Appeal**

The petition shall be submitted in accordance with the following requirements. Petitions for appeal shall be complete and accurate and those determined to be incomplete or inaccurate will be returned to the Petitioner as unfiled. Petitions which are not timely filed will be denied.

(a) A petition related to assessments, refunds or collections shall be substantially in the form attached hereto as Exhibit A as amended from time to time by the Tax Officer with the approval of the TCC Solicitor. Copies of the most current form may be obtained from the Tax Officer.

(b) There is no specific form of petition to be filed by an employer related to a withholding determination; the petition may be in the form of a letter or other appropriate form provided it is titled "Petition" at the top and contains the following information:

(i) The name, address and telephone number of the person or entity appealing;

(ii) The name of the political subdivision(s) which claims that an adjustment in withholding is required;

(iii) The applicable tax year(s);

(iv) The date of the notice of the withholding determination received by the employer or taxpayer;

(v) A copy of any records which may be associated with the appeal;

(vi) A copy of the withholding determination notice the employer received; and

(vii) A written statement from the employer explaining all reasons that adjustment in withholding is not required; and

(viii) The petition must be signed and dated by the employer.

(c) There is no specific form of petition to be filed by a political subdivision related to a remittance determination; the petition may be in the form of a letter or other appropriate form provided it is titled at the top "Petition" and contains the following information:

(i) The name, address and telephone number of the person or entity appealing;

(ii) The name of the political subdivision which claims that an adjustment in remittance is required;

(iii) The applicable tax year(s);

(iv) The date of the remittance determination notice received by the political subdivision;

(v) A copy of any records which may be associated with the appeal;

(vi) A copy of the remittance determination notice the political subdivision received;

(vii) A written statement from the political subdivision explaining all reasons that adjustment in remittance is required; and

(viii) The petition must be signed and dated by the political subdivision.

(d) There is no specific form of petition to be filed by a tax officer or political subdivision related to a distribution determination; the petition may be in the form of a letter or other appropriate form provided it is titled "Petition" at the top and contains the following information:

(i) The name, address and telephone number of the person or entity appealing;

(ii) The name of the tax officer or political subdivision which claims that an adjustment in distribution is required;

(iii) The applicable tax year(s);

(iv) The date of the distribution determination notice received by the tax officer or political subdivision;

(v) A copy of any records which may be associated with the appeal;

(vi) A copy of the distribution determination notice the tax officer or political subdivision received;

(vii) A written statement from the tax officer or political subdivision explaining all reasons that adjustment in distribution is required; and

(viii) The petition must be signed and dated by an officer duly appointed by the tax officer or political subdivision.

**303. Address for Filing Petition**

A Petition must be mailed via First Class Mail, or delivered in person to the Appeals Board at the following address:

Lehigh Tax Collection Committee  
Tax Appeals Board  
C/o ??????????

**304. Notice of Filing Petition**

Upon filing of a Petition, the Appeals Board shall promptly send a copy of the Petition and give notice to the tax officer and other parties who have an interest in the appeal.

**305. Waiver of Hearing**

If the petitioner does not request a hearing on the petition, the petitioner will be deemed to have waived any right to a hearing and to have consented for petitioner’s appeal to be decided without a hearing and based on the contents of the petition and record before the Appeals Board only. Notwithstanding a waiver for a hearing, the Appeals Board may hold a hearing if it decides that a hearing would be helpful to render a decision.

**306. Notice of Hearing**

Upon receipt of the fully completed petition for appeal, if the Appeals Board schedules a hearing, the Appeals Board shall give the petitioner, the tax officer, and other parties who may have an interest in the appeal reasonable notice, in writing, of the time, date, and place of the hearing on the petition.

**307. Hearing**

(a) The Appeals Board may, in its discretion, deny the petition if a hearing has been scheduled and the petitioner fails to appear for the hearing.

(b) In order to maintain taxpayer confidentiality, hearings involving taxpayer matters shall be closed to the public and shall not be subject to the requirements of 65 Pa.C.S. §701et. seq.

(c) The parties to the hearing shall be the petitioner, parties of interest, any person affected by the appeal who has made timely appearance of record before the Appeals Board, and any other person permitted to appear by the Appeals Board. The Appeals Board shall have power to require that all persons who are considered parties enter appearances in writing on forms provided by the Appeals Board for that purpose.

(d) The petitioner and parties of interest and others shall have the right to be represented by counsel.

(e) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded. All relevant evidence of reasonably probative value may be received. At the discretion of the Appeals Board, depositions or affidavits may be received in lieu of oral testimony if the actual presence of a witness is not feasible.

(f) The petitioner, parties of interest and the tax officer will have the opportunity to present any facts, documents, witnesses or other evidence on all relevant issues. Reasonable examination and cross-examination of all witnesses shall be permitted.

(g) Transcripts or recordings of a hearing are not required, but may be made at the discretion of the Appeals Board. In the event a stenographic record is requested by the petitioner or any other party of interest, the cost of the appearance fee and original transcript and one copy shall be shared equally by the Appeals Board, the petitioner and any other party of interest. If the Appeals Board requires a stenographic record, the cost of the appearance fee and original transcript and one copy shall be paid by the Appeals Board. If the petitioner or any other party of interest requests a copy of the transcript required by the Appeals Board, the petitioner and any other party of interest shall pay for the cost of the copy requested by them. The original transcript in all circumstances shall remain part of the Appeals Board's records of the hearing.

(h) The petitioner, parties of interest and others shall be afforded the opportunity to submit briefs prior to the Appeals Board rendering its decision. Oral argument upon substantial issues may be heard by the Appeals Board.

(i) The petitioner has the burden of proof on all issues.

### **308. Continuance**

The Appeals Board, or the Appeals Board Chairperson in advance of any Appeals Board hearing, may grant a request for continuance of a scheduled hearing. The request shall be made in writing, shall state the reasons for the requested continuance. A request shall be granted only if supported by written reasons, and for good cause. Absent extenuating circumstances, a request for continuance shall be filed with the Appeals Board Secretary at least five (5) days prior to the scheduled hearing. If the request is made within five (5) days of the scheduled hearing, the request shall contain an explanation for the delay in filing the request.

### **309. Decision**

(a) In evaluating and making a decision as to any petition, the Appeals Board shall apply the principles of law and equity.

(b) Decision on a petition shall be determined by the Appeals Board within sixty (60) days of filing (unless a longer period is permitted by law), but only if the petition was complete and

accurate when filed (as required by Section 301 above); shall be in writing, signed by all members or alternates who participated in the decision; shall contain findings and the reasons for the decision; and shall be mailed to the petitioner (with a copy to the petitioner's representative, if any), to the tax officer to parties who have made an entry of appearance and to any other parties of interest. If the appeal is subject to the requirements of the Local Taxpayers Bill of Rights ("LTBR") (53 Pa. C. S. §8421 et. seq.), the failure of the Appeals Board to act within 60 days shall result in the petition being deemed approved, but only if the petition was complete and accurate when filed.

#### **IV. Use of Authorized Representatives**

##### **401. Authorized Representatives.**

The Petitioner or other interested party may choose to be represented by a representative. The representative may be a lawyer, a certified public accountant, accountant, or other tax advisor possessing appropriate tax training to represent persons in tax appeals. The Petitioner shall indicate on the petition for appeal that they choose to be represented by a representative, and must include the representative's name, address and telephone number.

##### **402. Notices and Communications**

Copies of notices or communications may be sent by the Tax Officer and/or Appeals Board Secretary to the Petitioner's or other interested party's representative. However, the original notice or communications will always be sent directly to the Petitioner. Action taken by the Petitioner'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 Petitioner.

#### **V. Mandatory Mediation**

##### **501. Appeals Subject to Mandatory Mediation**

In accordance with Sec. 6924.505(k) of the LTEA, any dispute among the affected parties involving a 10% or greater deviation from taxes received in the previous tax year shall be subject to mandatory mediation, in accordance with regulations and guidelines to be adopted by the Pennsylvania Department of Community and Economic Development. Any dispute involving less than the 10% threshold may be subject to voluntary mediation in accordance with regulations and guidelines to be adopted by the Pennsylvania Department of Community and Economic Development. The mediation requirements of the LTEA shall be complied with prior to the scheduling of any hearing and making any decision by the Appeals Board.

#### **VI. Appeal to Court of Common Pleas.**

##### **601. Court Appeals**



Any person aggrieved by a decision issued by the Appeals Board, and who has a direct interest in the decision shall have the right to appeal the decision to the Lehigh County Court of Common Pleas within thirty (30) days from the date the decision was issued.

## **VII. Confidentiality**

### **701. Confidential Taxpayer Information**

Any information which the Appeals Board, its respective officers, agents, legal counsel, financial accountants, or employees, receives from a taxpayer about the taxpayer's income, salary, wages, and/or taxes because of a petition for appeal filed by the taxpayer or hearing before the Appeals Board 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.

### **702. Penalties**

A person who violates the confidentiality provisions of Section 701 commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$2,500 or to imprisonment for not more than one year, or both. The offender shall pay the costs of prosecution. If the offender is an officer or employee of the Tax Officer or the Appeals Board, the officer or employee shall be dismissed from office or discharged from employment.

## **VIII. Amendment to Appeals Board Regulations**

### **801. Amendments**

The TCC may amend or supplement the Appeals Board Regulations at any time, with or without notice to the Appeals Board, or any participant in a Tax Appeal. Procedural amendments shall be immediately applicable to any pending Tax Appeal. Substantive amendments shall not be applicable to any pending appeals properly filed.

## **IX. Concerns/Questions/Complaints**

Should a taxpayer or other interested person have a concern, question, or complaint regarding the Tax Appeals Board or the practices and procedures set forth herein, the person may send

correspondence to the TCC's Executive Director. The address for sending communications is available on the internet site for the TCC under the following Web site: [www.lehightcc.org](http://www.lehightcc.org).

## **EXHIBIT "A"**

### **FORM OF PETITION TO FILE APPEAL FROM DENIAL OF TAX REFUND OR A DETERMINATION OF A TAX ASSESSMENT OR A COLLECTION NOTIFICATION**

#### **The Lehigh County Tax Collection District**

#### **Petition for Appeal**

#### **Instructions**

This form is to be used to appeal an assessment of tax, a denial of a claim for refund, or a collection notification. A copy of the Petition may be downloaded from the TCC Web site at [www.lehightcc.org](http://www.lehightcc.org). Please complete the Petition using blue or black ink, or type the Petition. Mail this Petition to: Lehigh Tax Collection Committee, Appeals Board, c/o????????

Answer all questions below as completely as possible. If an item is not applicable, enter "N/A."

#### **Attachments required:**

- **PETITION TO APPEAL DENIAL OF TAX REFUND REQUEST:**
  - A copy of the notice/determination being appealed;
  - A copy of the original taxpayer written refund request;
  - Proof that the tax for which a refund is requested was paid;
  - A copy of any local tax return which may be associated with the petition to appeal; and
  - Copies of all federal and/or state returns and/or schedules which may relate to the petition to appeal.
  
- **PETITION TO APPEAL ASSESSMENT FOR TAXES OR COLLECTION NOTIFICATION:**
  - A copy of the notice/determination being appealed;
  - A copy of any local tax return which may be associated with the petition to appeal; and
  - Copies of all federal and/or state returns and/or schedules which may relate to the petition to appeal.
  
- **Any petition related to a dispute required to be submitted to mediation pursuant to 53 P.S. § 6924.505(k) must include a certification of unsuccessful mediation.**

**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? \$ \_\_\_\_\_

If so, what date was a refund originally requested? \_\_\_\_\_

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: Hearing Request/Waiver**

Hearing Requested (*Check if Taxpayer desires a hearing in person*)

Hearing Waived (*Appeals Board will make its decision without a hearing based upon the contents of the petition and record before the Appeals Board only,; nevertheless the Appeals Board reserves the right to hold a hearing to receive evidence from the petitioner, tax officer or other parties of interest.*)

**If choice is not indicated, hearing will be conducted based on Petition and Record and without a hearing in person, unless the Appeals Board decides a hearing is required.**

**Section E: 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. \_\_\_\_\_

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**Section F: 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. I further certify that this Petition has not been filed for purposes of delay.

Signature: \_\_\_\_\_  
*(Taxpayer or Authorized Representative)*

Print Name: \_\_\_\_\_  
*(Taxpayer or Authorized Representative)*

Title: \_\_\_\_\_

Date: \_\_\_\_\_