

**HVERFORD TOWNSHIP,  
DELAWARE COUNTY, PENNSYLVANIA**

**BUSINESS PRIVILEGE  
AND MERCANTILE TAX  
REGULATIONS**

## **INTRODUCTION**

Persons desiring to do business in Haverford Township (the “Township”) are required to obtain a business license and pay a business privilege and/or mercantile tax.

These Regulations provide a formal interpretation of the Township’s Business Privilege Tax and Mercantile Tax Ordinances, referred to collectively herein as the “Tax Ordinance.”

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

**THESE REVISED REGULATIONS ARE EFFECTIVE AS OF JANUARY 1, 2010. THESE REGULATIONS SUPERSEDE ANY AND ALL PREVIOUS VERSIONS OF THE TOWNSHIP’S BUSINESS PRIVILEGE TAX REGULATIONS, MERCANTILE TAX REGULATIONS, POSITION STATEMENTS, AND INTERPRETATIONS.**

For additional information or copies, please visit [www.haverfordtownship.com](http://www.haverfordtownship.com) or contact:

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Department of Finance  
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Havertown, PA 19083  
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**BUSINESS PRIVILEGE AND  
MERCANTILE TAX REGULATIONS**

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**ARTICLE I  
BUSINESS LICENSE**

**Section 100. License Required.**

Persons desiring to do business in Haverford Township must first obtain a business license from the Haverford Township Department of Finance, 2325 Darby Road, Havertown, PA 19083. Applications may be obtained from the Township's website at [www.haverfordtownship.com](http://www.haverfordtownship.com).

**Section 101. Fee, Term and Pro-ration.**

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

**Section 102. Posting.**

Licenses shall be kept and posted in a conspicuous place at the Taxpayer's business location.

**Section 103. License for Branch Establishments.**

In the event that a licensee conducts business at more than one location in the Township, an additional license is required for each additional place of business. Additional licenses shall be posted in accordance with Section 102 above. The fee for each additional license is \$10.00.

**Section 104. Assignment and Transfer Prohibited.**

Business Licenses may not be assigned or transferred. Any purported assignment or transfer shall be void and ineffective.

**Section 105. Change of Licensee's Address.**

Licensee's change of address must be reported in writing to the Township Department of Finance within 10 days after such change becomes effective.

**Section 106. Failure to Procure License.**

Persons who engage in a business, profession, or other commercial activity without a valid license are subject to fine and legal action.

**ARTICLE II  
BUSINESS PRIVILEGE TAX AND MERCANTILE TAX**

**Section 200. Authority.**

The Tax Ordinances were enacted under authority of the Local Tax Enabling Act (Act 511 of 1965), as amended, 53 P.S. §§ 6924.101 et seq., and appear in the Codified Ordinances of Haverford Township at Chapter 165, Articles II and III.

**Section 201. Definitions.**

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

As used in these Regulations:

**“Agent”** is a Person with the legal authority to act on behalf of another, called a principal.

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

**“Allocation”** of gross receipts, is the calculation of a share of total Gross Receipts for a particular Base of Operations when more than one Base of Operations exists.

**“Apportionment”** of gross receipts, is the calculation of a share of Gross Receipts to be included in the tax base, resulting from the performance of services outside Pennsylvania, by or in conjunction with a Base of Operations with substantial nexus with Haverford Township. See Section 207 of these Regulations regarding *Interstate Commerce* for apportionment formula and applicability.

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

**“Base of Operations”** is a physical location used by a Taxpayer to conduct significant business activities. Examples of significant business activities include:

1. Providing workers with a place to work.
2. Providing a base from which operations are managed, directed or controlled.
3. Storage of inventory or other business assets.
4. Administrative, executive, or marketing activities, including meetings.
5. Maintaining business records.
6. Business communications via telephone, fax, mail, or electronic means.
7. Utilization of business equipment.
8. The holding out to others, through the use of signage, advertising, legal registry or

- stationery to indicate a business location.
9. Rental or sublet of real estate by a landlord or tenant.

Whether a location constitutes a Base of Operations is a facts and circumstances test.

A Taxpayer with a single location is deemed to have a Base of Operations at that location. A Taxpayer claiming that a location in Haverford Township is not a Base of Operations, must demonstrate that another location functions as a Base of Operations. A Taxpayer claiming multiple business locations has the burden of proving that each location constitutes a Base of Operations under the definition provided above.

Some types of business have little in the way of traditional indicia of business activity. Even so, there is a basic presumption that a business must exist somewhere and cannot exist without any base of operation.

**Home Office** - An area of a personal residence is recognized as a Base of Operations if it is used for business, and no other Base of Operations is reasonably available to conduct business activities. A home office used for the convenience of an employee, owner, or other worker, does not qualify as a Base of Operations. Use of a home office is deemed to be simply for the convenience of an employee or owner, if there is another business office where the same activities are performed.

Use of a customer's or client's facility by a Taxpayer does not qualify as a Base of Operations of the Taxpayer, if the business activity by the Taxpayer is incidental with respect to the Taxpayer's overall business activity. Business activity of sufficient size, duration, and complexity will constitute a Base of Operations of the Taxpayer.

**Example 1:** A consultant with no office in the Township spends three weeks working at a client's location in the Township. The client provides the consultant with a place to work and access to other facilities during the three weeks. The consultant also works at other client locations and at his own office.

**The consultant does not have a Base of Operations at his client's location because the activity in the Township lacks sufficient size, duration and complexity.**

**Example 2:** A property management firm headquartered outside the Township manages a building located in the Township under a three-year service contract. Several full-time employees of the management firm provide maintenance and administrative services, on a daily basis, and exclusively at the building in the Township. The building owner provides office space and a maintenance facility for the use of the property management firm's employees.

**The property management firm has a Base of Operations in Haverford Township because the business activity is of sufficient size, duration, and complexity.**

Commercial and/or rental real estate located in Haverford Township constitutes a Base of Operations of the owner, of the lessee, and of the operator.

**"Broker"** in general, is one who acts as an intermediate negotiator between parties to a transaction, and in a sense is the agent of both parties. The determination of who is a broker is fact specific. In industries that require a specific license to act as a broker, broker is defined by the requirements for the specific license.

**"Business Activity"** means any significant participation, by a Person, in efforts to offer a service or sale to another, or to engage in commercial transactions.

**"Commonwealth"** means the Commonwealth of Pennsylvania.

**"Exempt from Tax" or "Exempt"** refers to the status of Persons not subject to the Township's Business Privilege Tax and/or Mercantile Tax under the laws of the Commonwealth of Pennsylvania, for example, Institutions of Purely Public Charities, Government Entities, or manufacturers. See Section 206 of these Regulations. Any Person claiming exemption from Tax has the burden to demonstrate his legal right to such exemption.

**"Exclusion"** refers to certain receipts excluded from Gross Receipts and not subject to tax as provided by state law, Township Ordinance, or these Regulations. Any Person claiming an exclusion has the burden to demonstrate his legal right to such exclusion.

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

**"Gross Receipts"** means the gross amount of cash, credits or property of any kind or nature received in both cash and credit transactions allocable or attributable to the Township by reason of any sale made (including resales of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares and merchandise), service rendered (including labor and any materials employed in or becoming part of the service) or commercial or business transactions in connection with any business, trade, occupation or profession.

**"Gross Volume of Business"** a term used in the Mercantile Tax Ordinance, is synonymous with the definition of Gross Receipts, above.

**"Manufacturing"** consists of the application of labor and skill to material whereby the original article or raw material is changed into a new, different and useful article. Whether an article is a manufactured product depends upon whether it has gone through a substantial transformation in form, qualities and adaptability in use from the original material, so that a new article or creation has emerged. See Section 206(F) of these Regulations.

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

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

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

**“Tax”** means the Business Privilege Tax and/or Mercantile Tax levied by Haverford Township.

**“Tax exempt nonprofit corporation or organization”** is an institution that qualifies as a Pennsylvania Purely Public Charity. See Section 206(E) of these Regulations.

**“Tax Receiver”** means the Township’s Finance Director or a person authorized by the Township to administer the Tax.

**“Taxpayer”** means a person subject to the Tax. In a case where the Township is seeking to determine whether a person is subject to Tax, “Taxpayer” also includes such a person.

**“Township”** means Haverford Township, a home rule municipality located in Delaware County, a political subdivision of the Commonwealth of Pennsylvania.

**“Wholesale Dealer”** means any person who sells to dealers in or vendors of goods, wares and merchandise and to no other persons. A Wholesale Dealer sells to persons who purchase from Wholesale Dealer for the purpose of reselling the product in the same condition in which it is purchased.

**Section 202. Who Must File a Return.**

Every Person who has carried on or exercised Business Activity connected to a Base of Operations within the Township must file a Business Privilege and Mercantile Tax Return, whether or not tax is due. Tax returns are filed at the business entity level. In the case of a partnership, for example, the partnership entity, rather than the individual partners, should file the tax return and pay the tax.

A. **Mercantile Tax Portion of Return.** Wholesale and retail vendors or dealers in goods, wares and merchandise and operators of restaurants and other places where food or beverages are sold, are subject to the Mercantile License Tax and must complete the Mercantile Tax portion of the return.

B. **Business Privilege Tax Portion of Return.** All other persons doing business within the Township (primarily service providers), as well as those wholesale and retail vendors who also render services, must complete the Business Privilege Tax portion of the return.

**Section 203. Subject and Imposition of Tax.**

The Business Privilege Tax and the Mercantile Tax are levied on the privilege of doing business in the Township. A person exercises the privilege of doing business by engaging in any

commercial or business activity with a substantial connection to a Base of Operations in the Township to promote the sale of goods or services.

**Section 204. Base and Rate of Tax.**

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

B. **Tax Rate.** The Business Privilege Tax rate is 1.5 mills (\$1.50 per \$1,000.00 of Gross Receipts). The Mercantile Tax rate is 1.0 mill (\$1.00 per \$1,000.00) on wholesale Gross Receipts and 1.5 mills (\$1.50 per \$1,000.00) on retail Gross Receipts.

**Section 205. Exemptions and Exclusions.**

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

A. **State Preemption.** Persons with Gross Receipts from activity that has been judicially determined to be preempted by the Commonwealth of Pennsylvania may exclude receipts from such activity from the tax base. To date, local taxation has been preempted by the Commonwealth only as to the banking industry, the sale of insurance contracts subject to the Pennsylvania gross premiums tax, the alcoholic beverage industry and harness racing. Preemption has been judicially determined not to exist as to the legal profession, the real estate industry, nursing homes, and the securities industry.

***Important Note: Preemption does not relieve a Taxpayer from all municipal taxation. Gross Receipts that are unrelated to the aspect of business operations for which local taxation has been preempted by the Commonwealth remain subject to Tax by the Township. Taxable activity does not lose its character as such merely through association with preempted activity.***

B. **Duplicate State Tax.** Where the Commonwealth imposes a tax on the same subject matter as is taxed by the Township, and the Commonwealth tax is measured by the same Gross Receipts sought to be taxed by the Township, the Township is prohibited from taxing the same subject and receipts.

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

D. **Utilities.** Receipts from the provision of public utility services provided by any Person whose rates of service are fixed and regulated by the Pennsylvania Public Utility

Commission, and who constitutes a “public utility” as that term is defined by the Public Utility Code, are excluded from taxable receipts. Receipts from ancillary activities not governed by rate regulation are subject to Tax.

A Person claiming exemption as a Pennsylvania Public Utility must provide documentation sufficient to establish its entitlement to such exclusion including, but not limited to, certificates of public convenience, registration certificates, and copies of Assessment Reports showing gross intrastate operating revenues.

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

Specifically, the institution must:

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

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

The exemption does not apply to activities competing commercially with any Person subject to the Tax.

**Example 1:** A church meets the five-part test of a Purely Public Charity and is exempt from the Business Privilege Tax. However, this church has a large hall that is rented to parishioners and/or to non-parishioners for wedding receptions and parties.

**The Gross Receipts from the rental activity are subject to Tax because the rental activity is considered unrelated to the church’s charitable purpose. The Gross Receipts are also subject to Tax on the grounds that the rental activity competes with other businesses that are subject to the Tax.**

**Example 2:** A hospital operates a thrift store for the sale of used clothing. The operation of the thrift store is considered to be unrelated to the hospital’s charitable purpose of healthcare. The hospital is required to report the receipts from the thrift store operation on its Federal Form 990T (unrelated business income).

**The hospital’s receipts from the thrift store operation are subject to Tax.**

Receipts generated by a Taxpayer from sales to religious, charitable, educational,

governmental, or other entities that are exempt, are not excluded from taxable Gross Receipts.

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

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

Whether an activity constitutes manufacturing for purposes of the Mercantile Tax depends on the facts involved and each question is reviewed on a case-by-case basis. Pennsylvania Courts have held that for purposes of local taxes, manufacturing includes commercial bookbinding, production of apparel, lithography, commercial printing, oil refining, and steel milling. The Courts have determined that manufacturing does *not* include: radio and television broadcasting; steel annealing and galvanizing; commercial illustration; work product that is primarily intellectual or clerical in nature (*e.g.*, work of an attorney, architect, computer software engineer, etc.); scrap metal bundling; dyeing and finishing of cloth; purification through pasteurization, filtration and testing for bacteria and impurities; the preparation of potato salad, coleslaw, bread filling, and similar examples of “cooking;” adding water to concentrated juice slurry or powdered drink mix to make a finished product; and printing designs and wording on ready-made clothing.

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

**Producers.** The production, preparation or processing of natural resources or farm products (by manufacturers, producers, and farmers with respect to the goods, articles and products of their own manufacture, production or growth) is not subject to the Tax.

**Example:** Taxpayer owns an organically grown vegetable farm and sells to a specialty grocery store.

**Taxpayer’s receipts are excluded from the Tax.**

**Processing by-products of manufacturing.** By-products of manufacturing consist of secondary or additional products produced in addition to a principal product. Processing of by-products is not taxable activity, whether performed by the original manufacturer or by others.

**Example 1:** Taxpayer takes molten slag, a waste product discarded by a steel

manufacturer, and subjects it to a process that enables the iron component to be separated and sold back to the steel manufacturer.

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

**Example 2:** Taxpayer is in the business of annealing and galvanizing rolls of steel thereby making the steel more malleable.

**Taxpayer's activity is not manufacturing since no "new" product is created; nor is it "processing of a by-product of manufacturing" because rolls of steel are not secondary or additional products, but are themselves the principal product of the original manufacturer.**

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

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

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

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

**Example:** Twenty percent of the Gross Receipts realized by Taxpayer, a manufacturer of small engine parts, are generated by providing product maintenance services.

**Receipts from such services are not excluded.**

**G. Receipts Excluded From Gross Receipts (Exclusions).** State law or Haverford Township's Ordinances provide that the following specified receipts are excluded in the computation of Tax.

- (1) Cash discounts to purchasers for prompt payment of bills.
- (2) Charges advanced by a seller for freight delivery or transportation for the purchaser in accordance with the terms of a contract sale.
- (3) Receipts from sales of trade-ins, up to the amount given the prior owner as a trade-in allowance.
- (4) Refunds, credits or allowances given customers for defective goods returned.
- (5) Taxes imposed by the United States of America or by the Commonwealth of

Pennsylvania upon third persons (as opposed to taxes imposed on Taxpayer) and collected from such third persons by Taxpayer as agent for the United States of America or the Commonwealth of Pennsylvania, such as sales tax. Excise, franchise, and other taxes imposed by the United States of America or Commonwealth of Pennsylvania upon Taxpayer may not be excluded.

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

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

- (6) Receipts constituting exchanges between sellers of identical goods, but not to the extent of any additional cash payment accompanying the exchange.
- (7) Receipts from sales to other sellers in the same line of business as Taxpayer where Taxpayer transfers title or possession at the same price for which Taxpayer acquired the merchandise.
- (8) Transfers between one department, branch or division of a business entity and another department, branch or division of the same legal entity, recorded as interdepartmental transfers.
- (9) In the case of a financial business, the cost of securities and other property sold, exchanged, paid at maturity or redeemed and moneys or credits received in repayment of advances, credits and loans (not to exceed the principal amount of such advances, credits and loans) and deposits.

**Important Note:** Section 165-30 of Haverford's Business Privilege Tax Ordinance excludes from Gross Receipts certain commissions and fees between brokers. It has been judicially determined in Pennsylvania that a blanket exclusion for brokers violates the uniformity requirement, and is therefore unconstitutional. By Ordinance, any invalid provision is severed from the Tax Ordinances. The broker exclusion is no longer allowed as a blanket exclusion. See Section 306 (*Principals and Agents*).

**Section 206. Determination of Gross Receipts; Attribution, Allocation and Apportionment of Gross Receipts.**

Generally, in determining the tax base, the attribution or allocation of receipts among multiple Bases of Operations, and the apportionment of receipts with interstate characteristics, must fairly reflect the business activity connected to a Base of Operations in Haverford Township and avoid the possibility of double taxation.

A. ***Attribution.*** Attribution is the process of specifically identifying Gross Receipts directly or indirectly connected to a particular Base of Operations of the Taxpayer.

For Taxpayers with a sole business Base of Operations, 100% of intrastate Gross Receipts will be attributed to that single business location. (Interstate Gross Receipts are to be apportioned in accordance with Section 207 of these Regulations). Receipts cannot be attributed to job sites, or customer or subcontractor locations that do not qualify as a Base of Operations of the Taxpayer.

For Taxpayers with multiple Bases of Operations, Gross Receipts resulting from business activity managed, controlled or directed from a Base of Operations are attributed to that Base of Operations. Receipts will be considered attributable to a Base of Operations in the Township if any significant aspect of the transaction occurs or arises out of that Base of Operations in the Township. Generally, receipts paid by customers to a particular Base of Operations will be attributed to that Base of Operations. A Taxpayer with more than one Base of Operations must maintain accounting records to support attribution of receipts to the various business locations.

**Example 1:** A plumbing contractor has a single business location in Havertown, Haverford Township. He provides services to customers in numerous surrounding municipalities.

**100% of his Gross Receipts are attributed to his Havertown Base of Operations because all work is managed, directed and controlled from his sole business location.**

**Example 2:** An engineering firm has two offices; one in Haverford Township and another in the City of Allentown. The firm separately accounts for revenues and expenses for each location.

**Gross Receipts separately identified for the location in Haverford Township are attributed to Haverford. Gross receipts attributed to the Allentown Base of Operations are excluded from the Haverford Tax base, provided no part of the Allentown activity is managed, directed or controlled from the Haverford office.**

Gross Receipts must be determined through attribution if possible. If determination of Gross Receipts through attribution is not possible, Gross Receipts are determined through allocation. If attribution of receipts under this section does not accurately or fairly reflect a Taxpayer's activity connected to a Base of Operations in the Township, the Finance Director may determine Gross Receipts using the allocation or apportionment formulas.

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

**Property Factor:** The numerator of the property factor is the value of the tangible personal property and real property owned or leased and situated within Haverford Township and the denominator of the property factor is the value of tangible personal property and real property owned or leased and situated at Taxpayer's Base(s) of Operations in Pennsylvania which is/are located outside of Haverford Township. For purposes of this calculation, the value of leased property is eight times the annual rental.

**Payroll Factor:** The numerator of the payroll factor is payroll for workers connected with the office located in Haverford Township and the denominator of the property factor is payroll for workers connected with Taxpayer's Base(s) of Operation in Pennsylvania which are located outside of Haverford Township.

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

The Property Factor and Payroll Factor are averaged to determine the **Allocation Factor.**

Gross Receipts to be allocated to the Base of Operations in Haverford Township are determined by multiplying Taxpayer's total Gross Receipts by the Allocation Factor.

**Example:** A law firm is based in Haverford Township and has a second office in West Chester. The accounting system does not segregate receipts by location. Gross receipts total \$1,225,000 for the year. Total payroll and partners' compensation is \$860,000 and total property owned (and annual rent x 8) is \$1,150,000. Payroll and partners' compensation for workers based in Haverford is \$570,000 and property and annual rent (x 8) in Haverford is \$862,500.

**The allocation of Gross Receipts to the Haverford office is as follows:**

- Property Factor =  $862,500 / 1,150,000 = 75\%$**
- Payroll Factor =  $\$570,000/\$860,000 = 66.3\%$**
- Allocation Factor = average of 75% and 66.3% = 70.65%**

<b>Total Gross Receipts</b>	<b>\$1,225,000</b>
<b>Allocation Factor</b>	<b><u>x 70.65%</u></b>

**Haverford Receipts**

**\$865,462.50**

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

**C. Apportionment.** Apportionment of Gross Receipts is the calculation of a share of Gross Receipts to be included in the tax base, resulting from the performance of services outside Pennsylvania, by or in conjunction with a Base of Operations in Haverford Township. See Section 207 of these Regulations regarding *Interstate Commerce* for apportionment formula and applicability.

**D. Taxpayers Subject to Philadelphia Business Privilege Tax.** The City of Philadelphia imposes its Business Privilege Tax under a different state law than other Pennsylvania municipalities. Philadelphia may impose its Business Privilege Tax on taxpayers that do not have a Base of Operations in Philadelphia. In order to avoid the possibility of double taxation, Taxpayers subject to the Philadelphia Business Privilege Tax may exclude Gross Receipts upon which a gross receipts business privilege tax has been properly paid to City of Philadelphia.

**Section 207. Interstate Commerce.**

Gross Receipts resulting from sales or services with interstate characteristics are includable in the Tax base on an apportioned basis, provided the activity has substantial nexus to a Base of Operations in Haverford Township. Transactions with interstate characteristics include the performance of services by a Taxpayer outside Pennsylvania and the sale and delivery of goods to a non-Pennsylvania buyer in another state or country. The sale of interstate passenger tickets is considered to have interstate characteristics.

Apportionment of Gross Receipts will be made under the following formula:

$$\begin{array}{rclcl}
 \text{Total Gross} & & \text{Apportionment} & & \text{Gross Receipts} \\
 \text{Receipts} & \times & \text{Factor} & = & \text{Apportioned to} \\
 & & & & \text{Pennsylvania}
 \end{array}$$

The apportionment factor shall be the product of averaging the total of the following percentages:

- (i) Wages, salaries, commissions, and other compensation in Pennsylvania, as a percentage of total wages, salaries, commissions and other compensation.

For the purpose of computing the payroll factor other forms of compensation must be included when relevant. Other forms of compensation may include: self-employment

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

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

(iii) Gross Receipts from Pennsylvania sales and/or services, as a percentage of total Gross Receipts from sales and/or services.

For Taxpayers whose only Base of Operations is located in Haverford Township, the Tax base constitutes Gross Receipts apportioned to Pennsylvania.

For Taxpayers with more than one Base of Operations in Pennsylvania, Gross Receipts apportioned to Pennsylvania may be further allocated. Refer to Section 206 of these Regulations for provisions governing attribution or allocation of receipts between or among multiple Pennsylvania locations.

**ARTICLE III  
PARTICULAR BUSINESSES OR TRANSACTIONS**

**Section 300. General Applicability.**

Gross Receipts of any Taxpayer include the gross amount of cash, credit or property of any kind or nature received in both cash and credit transactions allocable or attributable to the Township by reason of any sale made, service rendered, or commercial or business transactions in connection with any business, trade, occupation or profession.

Gross Receipts upon which the Tax is imposed are undiminished by any costs of doing business, other than as specifically provided in these Regulations.

Gross Receipts may be measured using the cash or accrual method of accounting, provided the return is filed in accordance with the method of accounting used to prepare the Taxpayer's state and federal tax returns. Use of the completed-contracts or percentage-of-completion methods of accounting is prohibited for the purpose of determining Gross Receipts.

**Section 301. Administrative or Executive Offices.**

Maintaining a Base of Operations in Haverford Township used for administrative or executive activities is an exercise of a business privilege and is subject to the Tax. Administrative and executive functions contribute to the management and control of business operations. Gross Receipts attributed to administrative or executive offices are determined in accordance with Section 206 of these Regulations (*Determination of Gross Receipts*).

**Section 302. Affiliated Companies.**

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

**Example:** Taxpayer is a wholly-owned corporate subsidiary of ABC Company. All of ABC's accounting and administrative functions are performed by Taxpayer. Taxpayer bills ABC a "management fee" equal to its costs and expenses so that, by design, no profit is generated by Taxpayer. ABC purports to "reimburse" Taxpayer all of its expenses.

**So long as Taxpayer and ABC Company are separate legal entities, the inter-company management fees paid by ABC to Taxpayer are taxable Gross Receipts.**

**Section 303. Receipts from Lease, Use, or Rental of Personal or Real Property.**

Receipts from the lease, use, or rental of personal or real property are deemed to be receipts from the performance of services and subject to the Business Privilege Tax.

#### **Section 304. "Passive" Receipts.**

Gross Receipts include all receipts allocable or attributable to the Township by reason of any business transaction. Therefore, receipts from passive investment income, such as interest, dividends, and gain on the sale of capital assets, are generally included in the Tax base. The investment of business assets is deemed to be in connection with business transactions. For purposes of calculating gain on sale of capital assets, net book value may be deducted from the gross sales price.

**Example:** Taxpayer owns and operates an apartment building. The Taxpayer sells the building for \$1,000,000. The original cost of the building was \$500,000. Because of capital improvements and depreciation taken, the net book value of the building was \$250,000 at the time of sale.

**The Taxpayer must include \$750,000 (\$1,000,000 - \$250,000 NBV) as Gross Receipts from the sale of the building for Business Privilege Tax purposes. The building is a business asset connected to the Taxpayer's business activity of apartment leasing.**

Passive investment income may be excluded if the Taxpayer's Business Activity is exempt from the Business Privilege Tax.

#### **Section 305. Accountants, Architects, Engineers, Attorneys, Consultants, and other Persons Providing Professional Services.**

Any professional who maintains a Base of Operations in the Township, except as an employee of another, is subject to Tax on his/her entire Gross Receipts regardless of the location of his client, except for receipts allocated or apportioned in accordance with Article 206 of these Regulations.

**Example 1: Physicians** - A physician with a Base of Operations in Haverford Township, who also renders services at a hospital or other location outside of Haverford Township, must clearly demonstrate that the other location constitutes a Base of Operations, in order to attribute receipts thereto. If the only Base of Operations is in Haverford, all Gross Receipts will be attributed to Haverford.

**Example 2: Attorneys** - An attorney-client relationship may be equivalent to an agent-principal relationship. Accordingly, an attorney may exclude that portion of the receipts from legal services that are distributed directly to or on behalf of a client, such as the distribution of funds recovered in a lawsuit, the sale of real estate, or the proceeds in a collection matter, but only in accordance with the provisions of Section 306 (*Principals and Agents*).

#### **Section 306. Principals and Agents.**

A. **Revenue Collections by Agent.** Gross Receipts from revenue received by an agent for the account of his principal are to be reported by the principal. It is immaterial whether the client or customer remits directly to the principal or the agent for transmittal to the principal.

The agent is required to report the commission withheld by him as compensation for his services before remitting to his principal and/or any commission paid to him after the receipts are remitted to his principal. An agent is also required to include in Gross Receipts other receipts not for the account of his principal. No deduction of Gross Receipts may be taken by the principal for commission paid to or withheld by the agent.

**B. Dollar-for-Dollar Payments and Reimbursements.** Money or property received by an agent for transmittal to a third party on behalf of his principal or as a reimbursement of such a transmittal, is not to be reported by the agent as Gross Receipts, *provided* the receipt and/or subsequent payment contains no commission, mark-up, or rebate. The dollar-for-dollar requirement of such pass-through payments or reimbursements must be documented in a writing establishing the requisite agency relationship and shown as a separate item on governing invoices.

**Example:** Taxpayer Allen (agent) is retainer by Paul (principal) to locate, purchase and arrange delivery of a specific work of art. The agreement provides for a 10% finder's fee and the reimbursement of certain expenses. Allen finds, inspects, and purchases the artwork in Paul's name and has it delivered. Allen is paid by Paul as follows:

Cost of Artwork	\$50,000 (remitted to seller)
Finder's Fee	\$5,000
Delivery Cost	\$1,200 (paid to delivery company)
Allen's Travel Expenses	<u>\$1,147</u> (actual airfare, lodging, etc.)
<b>TOTAL</b>	<b><u>\$60,697</u></b>

Allen must include the finder's fee and the reimbursed travel expenses (\$6,147) in Gross Receipts for Business Privilege Tax purposes. The cost of the artwork and the delivery charge are excluded, since these costs were paid to third parties by Allen on behalf of Paul. Allen's travel expenses were incurred and paid in connection with services rendered by Allen, but these expenses were not paid to third parties on behalf of Paul and, therefore, are not excludable.

**C. Factors to be Considered in Establishing an Agency Relationship.** A Person will be regarded as acting as an agent for the purpose of collecting revenue or receiving reimbursement of an expense on behalf of a principal when all of the following conditions are met:

1. The contract or agreement between such Persons clearly and legally establishes the relationship of principal and agent and is evidenced in writing.
2. The books and records of the agent show the name of the principal on whose behalf the sale is made or the expense is incurred.
3. The credit risk is assumed by the actual owner of the property or the person for whom the service is rendered.

4. The books and records of the agent show the amount of Gross Receipts and an itemization of commission due and/or other revenue or expenses.

D. **Manufacturer's Representative.** A manufacturer's representative will be taxable on his gross commissions, provided he does not take title to the property being sold. Persons who take title to the property being sold will be treated as vendors-dealers under the Mercantile Tax Ordinance. No deduction is allowed for commissions paid to independent sales representatives or subagents.

E. **Agent as Employee.** Income earned as an employee is not subject to the Tax. Any agent asserting status as an employee must provide a copy of federal form W-2 and/or such other documentation as the Finance Director may reasonably require to show employment. Receipts earned by independent agents are subject to the Tax even though such persons qualify as "statutory employees" for purposes of federal income taxation.

F. **Advertising and Marketing Agencies.** Advertising and marketing agencies must include all Gross Receipts from consulting services and/or the development and production of marketing programs and materials. No exclusion is allowed for production costs, such as printing. Gross Receipts representing the reimbursement of advertising costs incurred by the agency on behalf of its client (principal) may be excluded, *provided* that the reimbursement is dollar-for-dollar, and the reimbursement is separately stated at cost on the agency's invoice.

**Example 1:** A vendor retains a marketing agency to develop an advertising concept, design a printed flyer, and arrange for the flyer to be distributed as an insert through a newspaper publisher. The marketing agency also subcontracts the printing of the flyer as part of the engagement. The contract between the vendor and the marketing firm clearly establishes a principal-agent relationship and provides for a fixed fee of \$30,000 for the design, printing and placement of 450,000 flyers, plus the advertising fee paid to the newspaper at cost. The agency incurs costs for subcontracted photography (\$1,250), printing (\$4,675), and placement fees paid to the newspaper (\$18,000). The marketing agency invoices the vendor \$48,000, showing the exact cost of the placement fee on the face of the invoice.

**The marketing agency may exclude the \$18,000 dollar-for-dollar reimbursement of the advertising cost from Gross Receipts.**

**Example 2:** Same facts as Example 1, except the marketing agency takes a 15% agency discount on the placement fee, paying the newspaper \$15,300, but charges the vendor \$48,000, showing the advertising cost as \$18,000 on the invoice.

**No exclusion from Gross Receipts is allowed by the agency because the reimbursement was not dollar-for-dollar.**

G. **Insurance Agents, Brokers and Underwriters.** General agents for insurance companies are required to report as Gross Receipts the entire commissions received as

compensation on policies sold by them directly as well as the overriding commissions received by them upon business produced by brokers and subagents. Brokers and subagents are required to report as Gross Receipts the commissions received as compensation for their services. No deduction is allowed for commissions paid to solicitors, subagents, brokers, or others.

**H. Real Estate Brokers and Agents.** Real estate brokers and agents are required to report as Gross Receipts the commissions and fees received for services rendered in promoting the purchase, sale, rental and/or management of property for others. Gross Receipts include commissions on properties not located in Haverford Township if the transaction is handled through personnel connected to a Base of Operations in the Township. Similarly, Gross Receipts include commissions on transactions managed, controlled, or directed through a Base of Operations in Haverford Township, even though settlement is conducted at a location outside Haverford Township.

1. No deduction from Gross Receipts is allowed for commissions paid by real estate brokers to real estate agents or to other brokers except where a principal-agent relationship is established in accordance with this Section 306.

2. If a real estate broker takes title to real property in his own name or in a straw name and sells the property, he is required to include the gross selling price of the property as taxable receipts, undiminished by the cost of the property or other expenses. However, if the sale qualifies as the sale of a capital asset under the Internal Revenue Code, the cost of the property may be deducted from Gross Receipts. See Section 304 of these Regulations.

**Section 307. Other Brokers.**

Brokers must include receipts passed on to other brokers except where a principal-agent relationship is established in accordance with Section 306.

**Section 308. Persons Who Repair, Alter or Improve Tangible Personal Property.**

Persons with a Base of Operations in Haverford Township, who repair, alter, or improve tangible personal property are required to include total customer charges in Gross Receipts without deduction of materials or costs of any kind. This provision applies regardless of whether or not there is a mark-up of the costs to the customer. Gross Receipts from work performed outside the Township are included in the Tax Base unless they may be excluded through allocation or apportionment as provided in Section 206 of these Regulations.

**Section 309. Persons Erecting Buildings or Altering, Repairing, or Improving Real Property.**

A contractor or subcontractor with a Base of Operations in Haverford Township, in the business of erecting buildings, or altering, repairing or improving real property, or any other construction, installation, or demolition work, shall include in Gross Receipts all receipts derived from the performance of such contract. In the case of a general contractor, prime contractor or subcontractor, no deduction or exclusion from Gross Receipts is allowed for amounts paid for

land, materials, suppliers and/or subcontractors.

Contractors must include in Gross Receipts 100 percent of receipts from work in Pennsylvania that is connected to a Base of Operations in Haverford Township. Gross Receipts from work performed outside of Haverford Township may be apportioned in accordance with Section 206 of these Regulations.

No exclusion or deduction from Gross Receipts is allowed for receipts attributed from contracts that involve the use of a job-site trailer, unless such trailer qualifies as a Base of Operations as specifically provided under Section 201 (*Definitions: Base of Operations*).

**Section 310. Persons Paying Taxes to Other Municipalities.**

Where a Taxpayer files a return and pays a business privilege or mercantile tax to another municipality, receipts reported to that municipality may be excluded *only if* the Taxpayer has a Base of Operations in such other municipality and has properly attributed receipts to the Base of Operations in that municipality and paid tax upon those receipts to that municipality. Taxpayer must provide proof of payment of taxes.

**Section 311. Building Operators.**

Persons operating hotels, apartment houses, boarding houses, nursing homes, eldercare facilities, offices, or commercial real property are subject to the Business Privilege Tax. Gross Receipts include rents, management fees, expense reimbursements (including utilities, insurance and taxes), commissions, common area maintenance charges, furnishing of meals, and charges for any other services rendered, and receipts connected to any business activity attributed to a Base of Operations in Haverford Township.

Persons holding real property who employ rental agents or a real estate management company to assist with the rental and/or management of the property are subject to the Tax.

Persons with a Base of Operations in Haverford Township and operating buildings or other real property outside Haverford must allocate receipts in accordance with Section 205 of these Regulations.

**Section 312. Intellectual Property.**

The development of intellectual property, whether for sale, use or lease, is deemed to be a service and is subject to the Business Privilege Tax. Intellectual property includes, but is not limited to, works of art, inventions, software, information systems, manuscripts and other works of authors, and other property that can be protected by patent or copyright.

**Section 313. Wholesalers and Retailers.**

Receipts from wholesale sales transactions are included in the Mercantile Privilege Tax base but taxed at a lower rate than receipts from retail sales transactions. The Mercantile Ordinance

defines a wholesale dealer as “any person who sells to dealers in or vendors of goods, wares and merchandise and to no other persons.”

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

**Example 1:** Company D is a distributor of home improvement supplies such as lights and fans. Company D sells the supplies to a large home improvement store. The home improvement store sells the supplies to home owners.

**For purposes of this transaction, Company D is considered a wholesaler and its receipts from the sale of lights and fans to the home improvement store are taxed at the wholesale rate.**

**Example 2:** Same scenario as Example 1. **For purposes of this transaction, the home improvement store is considered a retailer and its receipts from the sale of the lights and fans to home owners are taxed at the retail rate.**

**Example 3:** Same scenario as Example 1 except that the home improvement store sells lights to a smaller boutique store that sells lights. **For purposes of this transaction, the home improvement store is considered a wholesaler because it sells the lights in the same condition as when it purchased the lights and sells them to a customer who will resell them in the same condition.**

**Example 4:** The home improvement store sells lumber to a contractor who is building a home. The lumber is incorporated by the contractor into the home that is then sold to a buyer.

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

## **ARTICLE IV DECLARATION AND PAYMENT OF TAX**

### **Section 400. Tax Returns.**

Business Privilege and Mercantile Tax Returns are due annually on or before April 15.

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

Persons who have been in business less than one full year must calculate estimated Gross Receipts for the current year in accordance with Sections 165-19 and 165-34 of Haverford's Tax Code. Copies of any and all sections of the Tax Code are available and may be obtained from the Township's Finance Department, as well as the Township's website.

**Section 401. Extension of Time for Filing Returns.**

Haverford Township will recognize a valid federal extension of time to file a return for Business Privilege and Mercantile Tax purposes, so long as all Tax is paid to the Township by the original due date for the return, and a copy of the federal extension is submitted. An extension of time to file a return is not an extension of time to pay Tax associated with the return. No extension of time to pay Tax is allowed.

**Section 402. Filing to Be Complete.**

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

**Section 403. Accounting Methods (Cash or Accrual).**

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

**Section 404. Records to be Kept.**

Every Taxpayer is required to keep such accounts and records as will enable the filing of true and accurate declarations and returns. Such accounts and records shall be sufficiently complete to enable the Finance Director or his/her designee to verify the accuracy of the declarations or returns filed. Accounts and records are to be preserved for a period of not less than six years.

**ARTICLE V  
ADMINISTRATION AND ENFORCEMENT**

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

Taxpayers are entitled to receive a written explanation of their rights and obligations with regard to any audit, appeal, enforcement, refund or collection of local taxes by Haverford Township. The Disclosure Statement is attached hereto as Addendum A. Additional copies are available to Taxpayers at no charge from the Finance Department.

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

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

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

B. **Minimum Time Periods for Taxpayer Response.** Taxpayers shall have at least 30 calendar days from the mailing date to respond to an initial request for information from the Township. The Finance Director shall notify any Taxpayer from whom information is initially requested of the procedures to obtain an extension of time in which to respond, and shall grant reasonable extensions of time in which to respond for good cause shown. No action shall be taken against a Taxpayer for the tax year in question until the expiration of the response period, including extensions.

C. **Inquiry as to Prior Year Returns.** Except as provided below, an initial inquiry regarding a Taxpayer's compliance with the 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 of such inquiry. If, after the initial request, the Finance Director or his/her agent 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, subsequent requests for tax returns or supporting information may be made. Subsequent requests will be limited to two additional years (for a total of five years prior to the first date of initial inquiry), unless the Taxpayer filed no return or filed a fraudulent return, in which case the Township may request information for another additional year (for a total of six years prior to the first date of initial inquiry). Note, however, that in the event the Finance Director has sufficient information to indicate that a Taxpayer has failed to file a required return or pay tax that was due more than three years prior to the date of the notice, an initial request is not limited to three years and may include as many as six years

prior to the date of the initial inquiry.

**Section 502. Procedures for the Conduct of Taxpayer Audits.**

The following procedures shall be followed during the conduct of an audit of a Taxpayer's books and records:

A. **Notice of Audit.** The Taxpayer shall be notified in writing of a scheduled audit at least 30 days in advance. The notice of audit shall contain the following information:

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

B. **Rescheduling Audit.** The Taxpayer may request that the audit be rescheduled, provided that it is rescheduled within a reasonable time not exceeding 30 days.

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

D. **Use of Estimates.** In the event that the information, books and records provided by the Taxpayer are not sufficient for the purpose of verifying the correct amount of tax, the Finance Director is authorized to ascertain the amount of tax due through the use of estimates.

E. **Audit Results.** In the event a notice of assessment is issued as a result of an audit, the Taxpayer shall be provided with a copy of the auditor's report of findings and conclusions, including the calculation of any tax, interest and/or penalty found to be due.

**Section 503. Examination of Return, Notice of Assessment.**

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

1. The tax period or periods for which the underpayment is asserted.
2. The amount of the underpayment detailed by tax period.

3. The legal basis upon which the Township has relied to determine that an underpayment exists.

4. An itemization of the revisions made by the Township to a return filed by the Taxpayer that result in the determination that an underpayment exists.

If the Tax Receiver finds that the tax that has been paid by the Taxpayer is more than the correct amount, the Tax Receiver shall credit the overpayment against any taxes owed by the Taxpayer to the Township and shall refund the difference to the Taxpayer. Written notice of such action by the Tax Receiver shall be provided to the Taxpayer.

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

**Section 504. Petition for Reassessment.**

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

**Section 505. Refund of Overpayments, Interest on Overpayments.**

**A. Taxpayer Request for Refund of Overpayments.** Any Taxpayer who has made an overpayment of tax to the Township may file a written request with the Finance Director for a refund or credit. A request for refund shall be made within three years of the due date for filing the tax return, or one year after actual payment of the tax, whichever is later. If no return (or 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. A request for refund shall not be considered complete and filed unless and until all information necessary for the Township to determine the merits of the request have been received by the Township.

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

2. ***Refund request not a Petition for Administrative Appeal.*** A request for refund under this section shall not be considered a Petition for Administrative Appeal and shall not preclude a Taxpayer from submitting a Petition for Administrative Appeal. See Section 512 (Taxpayer's Administrative Appeals).

3. ***Refund after Notice of Assessment.*** For amounts paid as a result of a notice asserting or informing a Taxpayer of an underpayment, a written request for refund shall be filed with the Township within one year of the date of the payment.

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

1. ***Rate of interest.*** Interest on overpayments shall be allowed and paid at the same rate as the Commonwealth is required to pay pursuant to Section 806.1 of the Act of April 9, 1929 (P.L. 343, No.176), known as The Fiscal Code.

2. ***75 days before interest accrues.*** No interest shall be allowed if an overpayment is refunded (or applied against any other tax, interest or penalty due the Township) within 75 days after the last date prescribed for filing the report of the tax liability or within 75 days after the date the return or report of the liability due is filed, whichever is later.

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

**C. Acceptance of Refund Check.** The Taxpayer's acceptance of the Township's refund check shall not prejudice any right of the Taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check by the Township shall be deemed to be acceptance of the check by the Taxpayer.

**Section 506. Abatement of Certain Interest and Penalty.**

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

1. Any underpayment of tax finally determined to be due attributable in whole or in part to any error or delay by the Township in the performance of a ministerial act. Provided, however, that no significant aspect of the error or delay is caused by the Taxpayer after the Township has contacted the Taxpayer in writing with respect to the underpayment of tax finally determined to be due or payable.

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

**B. Erroneous Written Advice by Township.** The Township 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 Township, acting in his or her official capacity if:

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

2. The portion of the penalty or addition to tax or excess interest did not

result from a failure by the Taxpayer to provide adequate or accurate information.

**Section 507. Installment Agreements.**

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

A. **Termination of Installment Agreement.** The Finance Director may terminate any installment agreement if: (a) information provided to the Township prior to the date of the agreement was inaccurate or incomplete, or (b) the Finance Director believes that collection of the tax under the agreement is in jeopardy.

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

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

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

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

**Section 508. Payment Under Protest.**

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

**Section 509. Violations, Interest on Underpayment and Penalties.**

A. **Interest on underpayment.** If any amount of tax imposed by the Tax Ordinance is not paid on or before the last date prescribed for payment, interest on such amount at the rate of 1½ percent per month, or fraction of a month, shall be payable for the period from such last date to the date such amount is paid. Except as provided by state law, as reflected in Sections 506A and 506B (*relating to errors and delays by the Township and erroneous written advice*

from the Township), interest is mandatory and will not be abated.

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

C. ***Fine.*** Any Taxpayer (including any officer, agent, or employee thereof) who knowingly fails to obtain a license, fails to remit any tax due, fails to file complete and correct reports or returns when due, or makes a false or fraudulent return, may be subjected to a fine of \$600.00 and costs of enforcement for each offense, and, in default of payment of such fine and costs, to imprisonment for a term not exceeding 30 days.

**Section 510. Confidential Nature of Tax Information.**

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

**Section 511. Dishonored Checks.**

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

**Section 512. Taxpayer's Administrative Appeals.**

In order to appeal any assessment, determination or denial of refund of tax, the Taxpayer must file a Petition for Administrative Appeal with the Finance Director. All Petitions shall be mailed or delivered to: Haverford Township, Finance Director, 2325 Darby Road, Havertown, PA 19083.

A. ***Petitions for Administrative Appeal.*** Petitions shall be in writing on a form substantially similar to that attached hereto as Addendum B. A petition is timely filed if the letter transmitting the petition is postmarked by the United States Postal Service on or before the final day on which the petition is required to be filed. If hand delivered, a Petition will be deemed to be filed on the date received in the Office of the Finance Department at the address shown above.

B. ***Contents of Petition for Administrative Appeal.*** Petitions shall: (1) state the name, address and telephone number of the Taxpayer and Taxpayer's authorized representative (if any), (2) identify the tax and tax period(s) to which the Petition pertains, (3) state the amount of tax appealed and the legal basis for the appeal (*i.e.*, state how or why the assessment is incorrect; or why a refund request should have been granted), (4) provide copies of all supporting documentation and calculations, (5) state whether an oral hearing is requested, and (6) certify

under penalty of perjury that the facts in the Petition are true and correct and that the Petition is not filed for purposes of delay.

**C. Deadlines for Filing Petition for Administrative Appeal.**

1. Refund Petitions shall be filed within three years after the due date for filing the report, or one year after actual payment of tax, whichever is later. If no report is required, the petition shall be filed within three years after the due date for payment of the tax or within one year after actual payment, whichever is later.

2. Petitions for Reassessment of tax shall be filed within 90 days of the date of the assessment notice.

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

1. Hearings. Hearings shall be held at the Township Municipal Building, 2325 Darby Road, Havertown, PA, unless otherwise directed by the Hearing Officer. Hearings will be informal in nature and technical rules of evidence will not be applicable.

(a) Representation. Taxpayers may appear before the Hearing Officer with or without benefit of representation. Any person seeking to represent a Taxpayer at the hearing must first be so authorized by the Taxpayer in writing. A Taxpayer's representative need not be professionally trained, but should be familiar with the Tax Ordinance, these Regulations and the facts of the case.

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

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

2. Hearing Officer's Decision. After the conclusion of the hearing, the Hearing Officer shall issue a written Decision to the parties. The Decision is considered timely issued so long as it is mailed, faxed, emailed or otherwise transmitted to the parties on or before

the deadline. The deadline to issue a decision is 60 days from the date of the filing of the petition; however, the parties may jointly waive their rights to a decision within 60 days.

**Section 513. Judicial Appeal.**

Any person aggrieved by a decision of the Local Tax Hearing Officer who has a direct interest in the decision has the right to appeal to the Court of Common Pleas of Delaware County, Pennsylvania.

**Section 514. Construction.**

If any sentence, clause, or section or part of these regulations is, for any reason, found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, or sections or parts of these regulations. These regulations would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

END

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APPENDUM A

**Haverford Township**  
**LOCAL TAXPAYERS BILL OF RIGHTS**  
**DISCLOSURE STATEMENT**

It is the obligation of all Taxpayers to file all local tax returns voluntarily and pay all local taxes to which they are subject. However, when the duly appointed or elected tax collector determines that a required return has not been filed, or a tax liability has not been paid, the Local Taxpayers Bill of Rights 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 Haverford Township, Pennsylvania (“Township”) and any enforcement or collection actions on behalf of the Township.

To obtain forms and/or more information, please visit [www.haverfordtownship.com](http://www.haverfordtownship.com) or contact:

Haverford Township  
Finance Department  
2325 Darby Road  
Havertown, PA 19083  
(610) 446-1000

**Applicability of Disclosure Statement**

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

- (1) Mercantile Tax
- (2) Business Privilege Tax
- (3) Real Estate Transfer Tax
- (4) Local Services Tax

Unless expressly provided in the Local Taxpayers Bill of Rights, the failure of any person acting on behalf of the Township 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.

### **Audits or Examinations**

If we contact you about your tax return or payment of any eligible taxes, we will send you a letter with either a request for more information or a reason why we believe a change to your return or taxes may be needed. If we request information, you will have at least 30 calendar days from the date of the mailing to respond. Reasonable extensions of 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. In general, 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. However, if you have failed to file returns in any of the six years prior to the mailing date of our notice, or if we have sufficient information to indicate that taxes are owed and have not been paid in that period, we may initially request information for tax returns required to be filed or taxes required to be paid six 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 tax (which we call an “assessment” or “underpayment”). Our explanation will include: (1) the tax period or periods for which the underpayment is asserted; (2) the amount of the underpayment detailed by tax period; (3) the legal basis upon which we have relied to determine that an underpayment exists; and (4) an itemization of the revisions made by us to your return or report that results in our decision that an underpayment exists.

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

### **Appeals of Decisions**

If we notify you that you owe more tax and you do not agree with our decision, you may appeal or seek review by filing a Petition for 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.

Your Petition must explain the legal basis for your position and include all supporting documents. A form for submission of a Petition is available from the Township. After your Petition is received, we will notify you of your hearing date, if you requested a hearing. A decision by the Local Tax Hearing Officer, who has been appointed by the Township, will be made within 60 days of the date your complete and accurate Petition is received, unless you waive the right to a decision within 60 days. If you do not agree with the decision of the Hearing Officer, you may appeal to the Court of Common Pleas of Delaware County.

## **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, 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 three 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 may obtain a form for your Refund Claim by contacting the Township. You may be asked for certain information needed so that the Township can determine whether you are entitled to a refund. If you do not provide such information, the Refund request will be deemed incomplete and will either be denied or not acted upon.

If you file a tax return showing an overpayment of tax, we will treat that as a request for cash refund unless you indicate otherwise. If your Refund Claim is denied, you may file a Petition contesting the denial of the refund. A Petition must be filed within the same time limits that apply for a Refund Claim. Alternatively, you may file a Petition for Administrative Review without first filing a Refund Claim. If you file a Petition and request a hearing, a hearing date will be set after your Petition is received. A decision by the Hearing Officer will be made within 60 days of the date your complete and accurate Petition is received.

## **Enforcement Procedures**

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

## **Tax Information Confidentiality**

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

## **Taxpayer Complaints**

If you have a complaint about any action relating to the Township’s taxes, please contact

the Finance Director at: Haverford Township, Finance Department, 2325 Darby Road, Havertown, PA 19083. The Township's telephone number is (610) 446-1000, ext 240.