

**KEYSTONE CENTRAL  
SCHOOL DISTRICT  
CLINTON COUNTY, PENNSYLVANIA**

**BUSINESS  
PRIVILEGE TAX  
REGULATIONS**

Keystone Central School District Tax Office  
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## **INTRODUCTION**

Persons conducting or engaging in business activity in Keystone Central School District (the “**District**” or “**Keystone Central School District**”) are required to file Business Privilege Tax returns and to pay Business Privilege Taxes.

These Regulations provide a formal interpretation of the District’s Business Privilege Tax Resolution, referred to herein as the “Tax Resolution.”

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

**THESE REVISED REGULATIONS ARE EFFECTIVE AS OF JANUARY 1, 2019. THESE REGULATIONS SUPERSEDE ANY AND ALL PREVIOUS VERSIONS OF THE DISTRICT’S BUSINESS PRIVILEGE TAX REGULATIONS, INFORMATION BULLETINS, POSITION OR POLICY STATEMENTS, AND INTERPRETATIONS.**

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## TABLE OF CONTENTS

### ARTICLE I

Section 100. Authority .....	1
Section 101. Definitions.....	1
Section 102. Who Must File a Return.....	6
Section 103. Subject and Imposition of Tax. ....	6
Section 104. Base and Rates of Tax .....	7
Section 105. Exemptions and Exclusions.....	8
Section 106. Allocation of Receipts when Attribution is Not Possible; Apportionment of Receipts for Interstate Commerce.....	17

### ARTICLE II

Section 200. General Applicability.....	19
Section 201. Affiliated Companies.....	20
Section 202. Contractors Performing Building or Construction Work Outside the Keystone Central School District .....	20
Section 203. Unearned Receipts .....	20
Section 204. Accountants, Architects, Engineers, Attorneys, Consultants, and Other Persons Providing Professional Services .....	20
Section 205. Sale of Capital Asset .....	21
Section 206. Principals and Agents.....	21
Section 207. Other Brokers .....	24
Section 208. Persons Who Repair, Alter or Improve Tangible Personal Property .....	24
Section 209. Persons Erecting Buildings or Altering, Repairing, or Improving Real Property.....	24
Section 210. Persons Paying Taxes to Other Municipalities .....	25
Section 211. Building Operators .....	25
Section 212. Intellectual Property .....	25
Section 213. Wholesalers and Retailers.....	26
Section 214. Vending Machines .....	27

### ARTICLE III

Section 300. Tax Returns and Computation of Tax.....	28
Section 301. Extension of Time for Filing Returns.....	29
Section 302. Penalty, Interest, and Late Fee .....	29
Section 303. Filing to Be Complete.....	29
Section 304. Accounting Methods .....	29
Section 305. Records to be Kept.....	29

**ARTICLE IV**

**Section 400. Disclosure Statement of Taxpayers’ Rights and Obligations..... 30**  
**Section 401. Verification of Records, Audits, Response Periods, Prior Year  
Returns ..... 30**  
**Section 402. Procedures for the Conduct of Taxpayer Audits ..... 31**  
**Section 403. Examination of Tax Return; Notice of Assessment..... 31**  
**Section 404. Petition for Reassessment ..... 32**  
**Section 405. Refund of Overpayment; Interest on Overpayment..... 32**  
**Section 406. Abatement of Certain Interest and Penalty ..... 33**  
**Section 407. Installment Agreements ..... 34**  
**Section 408. Payment Under Protest..... 35**  
**Section 409. Violations; Interest on Underpayment and Penalties ..... 35**  
**Section 410. Confidential Nature of Tax Information ..... 35**  
**Section 411. Dishonored Checks or Electronic Payments ..... 35**  
**Section 412. Taxpayer Appeals..... 36**  
**Section 413. Judicial Appeal ..... 37**  
**Section 414. Construction ..... 37**

**Addendum A (Disclosure Statement)**

**Addendum B (Petition for Review)**

## ARTICLE I BUSINESS PRIVILEGE TAX

### **Section 100. Authority.**

The Tax Resolution was originally enacted May 29, 1986, pursuant to the authority in the Local Tax Enabling Act (Act 511 of 1965), as amended, 53 P.S. §§ 6924.101 *et seq.*

### **Section 101. Definitions.**

Words used in the Business Privilege Tax Resolution and/or these Regulations, but not defined in the Resolution, Regulation, by state statute, or by Pennsylvania case law, will be interpreted using the common and ordinary meaning afforded to such words in a local tax context. The pronouns “he”, “she” or “it” may be used interchangeably in reference to a taxpayer or other Person whether or not the Person is a male or female individual, a corporation, or any other form of business entity.

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 determination by Keystone Central School District of an amount of tax principal, penalty, interest or underpayment determined to be due from a Taxpayer.

“**Allocation**” or “**Allocation of Business Transacted**” is the calculation of the gross volume of business attributable to Business Activity within the Keystone Central School District.

“**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 or sales of goods, wares or merchandise outside Pennsylvania, by or in conjunction with Business Activity within Keystone Central School District. See Section 106(B) of these Regulations regarding *Interstate Commerce* for Apportionment formula and applicability.

“**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.
10. Ownership of real estate within the Township for current or future development.

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 Keystone Central School District 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 Operations.

**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.

Ownership of real estate within the District for current or future development constitutes a Base of Operations in the District.

**Example:** A developer with no office in the District owns land in the Township. The land is eventually developed and homes are erected and sold.

**The developer has a Base of Operations in the District. This is so whether the developer performs the construction or subcontracts the construction to another entity.**

Contractors and subcontractors with offices in the District have a Base of Operations in the District. Contractors and subcontractors with no office in the District are still subject to Tax if they are conducting Business Activity in the Township.

**Example 1:** A builder whose office is located outside of the District is contracted by a developer who owns property in the District to build one single-family custom home. The contractor does not set up any type of construction

trailer, comes into the District, performs his services and then leaves on a daily basis. The project is managed, directed and controlled from the builder's office located outside of the Township. The construction project lasts three (3) months.

**The builder does not have a Base of Operations in the District since the activity lacks sufficient size, duration and complexity. However, the contractor is still subject to tax because the contractor has conducted Business Activity in the District for 3 months.**

**Example 2:** The same builder in Example 1, whose office is located outside of the District, is contracted to build a development consisting of thirty (30) single-family homes. The project is anticipated to take two (2) years. The contractor sets up a construction trailer for the project manager and site supervisors and stores equipment and building materials on site.

**The builder has a Base of Operations in the District due to the size, duration and complexity of its activities in the Township.**

**"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 participation, by a Person, in efforts to offer a service or sale to another, or to engage in commercial or business transactions.

**"Capital Asset"** is a type of long-term asset that is not easily sold in the normal course of business for cash and is generally owned for its role in contributing to the ability to generate profit. Generally, it is expected that the benefits gained from the asset will extend beyond a time span of one year.

The term Capital Asset shall not include: (a) stock in trade of the Taxpayer or other property of a kind that would properly be included in the inventory of the Taxpayer if on hand at the close of the taxable year; (b) property held primarily for sale to customers in the ordinary course of the Taxpayer's trade or business; (c) a note or account receivable acquired in the ordinary course of trade or business for services rendered or from the sale of stock in trade or property held for sale in the ordinary course of business; (d) depreciable business property; (e) real property used in the Taxpayer's trade or business; (f) a copyright, a literary, musical or artistic composition, a letter or memorandum, or similar property (but not a patent or invention) held by the Taxpayer who created it, or by one whose basis in the property is determined by reference to the basis of the one who created it, or in the case of a letter, memorandum or similar property, a Taxpayer for whom such property was prepared or produced; (g) a U.S. government publication (including the *Congressional Record*)

held by a Taxpayer who received it (or by another taxpayer in whose hands the publication would have a basis determined in whole or in part by reference to the original recipient's basis) other than by purchase at the price at which the publication is offered to the public; (h) commodities derivative financial instruments held by commodities derivatives dealers; (i) hedging transactions entered into in the normal course of the Taxpayer's business; and (j) supplies of a type regularly used or consumed by the Taxpayer in the ordinary course of business.

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

**"Conducting Business" or "Conducting Business in the District"** means engaging in Business Activity in the District for all or part of 15 calendar days within the calendar year, or engaging in Business Activity from a Base of Operations in the District for any amount of time.

**"District"** means the Keystone Central School District, a public school district located in Clinton County, a political subdivision of the Commonwealth of Pennsylvania.

**"Doing Business in the Keystone Central School District"** means Business Activity that is carried on in the Keystone Central School District, and is synonymous with Conducting Business in Keystone Central School District.

**"Exempt from Tax" or "Exempt"** refers to the status of Persons not subject to the District's Business Privilege Tax and/or Business Privilege Tax under the laws of the Commonwealth of Pennsylvania, for example, Institutions of Purely Public Charity, Government Entities, or manufacturers with respect to specific Manufacturing operations. (See Section 105 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, Resolution, or these Regulations. Any Person claiming an Exclusion has the burden to demonstrate his legal right to such Exclusion.

**"Gross Receipts"** means the gross consideration credited or received, such as cash, credits, or property of any kind or nature, in both cash and credit transactions by reason of Business Transacted within the District.

**"Gross Volume of Business"** is synonymous with the definition of Gross Receipts, above. The phrase **"Gross Volume of Business transacted within the territorial limits of the Keystone Central School District"** means Gross Receipts connected with Business Activity occurring within the District.

**"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 105(F) of these Regulations.

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

**“Principal”** is a Person who has permitted or directed another (*i.e.*, an Agent) to act for his benefit and subject to his direction and control.

**“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, transferring, conveying or assignment of ownership of tangible or real property from the seller to the buyer for a price.

**“Service”** means performance of a duty or labor for a consideration, or any act or instance of assisting, helping or benefiting another for a consideration.

**“Tax”** means the Business Privilege Tax levied by Keystone Central School District.

**“Tax Administrator”** means the person or agency duly appointed or designated by the Board of Directors of Keystone Central School District to administer and collect the Tax.

**“Tax-exempt nonprofit corporation or organization”** is an institution that qualifies as a Pennsylvania Purely Public Charity. See Section 105(E) of these Regulations.

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

**“Temporary or Itinerant Business”** is a business carried on for fewer than 90 days.

**“Transacted”** means any performance of activities by a person in connection with a business purpose. A person engaging in business activities is deemed to be transacting business.

**Example:** A company has a business office in Keystone Central School District and therefore exercises the privilege of doing business in the District and is taxable. Activities at the office mainly involve corporate governance, human resources, information technology and finance. No sales of products, or customer services, are completed at this office. The company has no customers located in Keystone Central School

District.

**Although no sales of products are completed at the office in the District and no customers are located in the District, the company is still transacting business within the territorial limits of the District by engaging in business activities and therefore has receipts that must be included in the tax base. The receipts from the business activities in the District may be derived by allocation. See Section 106(A) of these Regulations.**

**“Whole Volume of Business”** is synonymous with the definition of Gross Volume of Business and Gross Receipts, above.

**“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 102. Who Must File a Return.**

Every Person who has engaged in, conducted, exercised or carried on Business Activity within the District must file a Business Privilege Tax Return. A tax return must be filed whether or not tax is due. Tax returns are filed at the business entity level. In the case of a partnership, for example, the partnership entity, rather than the individual partners, should file the tax return and pay any tax due.

Whether or not a person carries on a taxable activity within the meaning of the Business Privilege Tax is essentially a question of fact. The Tax is imposed on any person who exercises the privilege of carrying on certain activities in the Keystone Central School District and is measured by receipts received in or allocable to the Keystone Central School District.

- (1) ***Inter and Intra-State Business.*** Doing business includes any trade, business, profession, vocation or commercial activity of an intrastate or interstate character.
- (2) ***Residence of Domicile.*** A Person who engages in a taxable activity in the Keystone Central School District is subject to this tax whether or not he is a resident and whether or not he has a permanent place of business in the District.
- (3) ***Foreign Corporations.*** A foreign corporation is subject to this tax if it carries on a taxable activity within the District whether or not it is licensed to do business in Pennsylvania.

### **Section 103. Subject and Imposition of Tax.**

The Business Privilege Tax is levied upon the privilege of doing business in the District. A Person exercises the privilege of doing business by engaging in any Business Activity in the District. The Resolution does not require that a Person have a Base of Operations in the District in order to be subject to tax.

### **Section 104. Base and Rates of Tax.**

**A. Tax Base.** The tax is based on Whole or Gross Volume of Business Receipts attributable or allocable to Transacting Business within the District. Receipts from certain activities are excluded or partially excluded from taxation, see Section 105 (*Exemptions and Exclusions*) and Section 106 (*Interstate Commerce*).

1. ***General.*** In general, receipts from any transaction shall be attributable to the Keystone Central School District if any event forming a part of the transaction occurs within the Keystone Central School District.
2. ***Persons rendering professional, commercial, industrial or personal services.*** If a person engaged in a profession or vocation or in rendering personal services maintains a place of business only in the Keystone Central School District, the entire receipts from personal services must be included in the measure of the tax whether or not the services are performed in the Keystone Central School District. Receipts will be deemed attributable to the Keystone Central School District if they result from the efforts of employees who work in, or from, or are attached to taxpayer's Keystone Central School District place of business. If said person performs services outside of Pennsylvania, receipts must be apportioned for interstate commerce in accordance with Section 106(B) hereto.
3. ***Lessors of real property.*** Persons who own and hold title to real property which is situated within Keystone Central School District are required to report the gross receipts from the rental of all such property, regardless of whether such persons maintain a business office within the District. Lessors of real property who maintain a leasing office or similar place of business within Keystone Central School District are required to report the gross receipts from the rental of all property, regardless of whether the properties or some of them are situated outside of Keystone Central School District, unless such receipts are taxable under a business privilege tax properly imposed by another Pennsylvania political subdivision. Lessors may not deduct from gross receipts any costs of doing business such as utilities, real estate taxes and common area maintenance, even if those costs are reimbursed by tenants.
4. ***Place of origin and delivery outside of the Keystone Central School***

***District.*** Where the place of origin of goods, wares, and merchandise in a sales transaction is a location owned or leased by the seller outside of Keystone Central School District and the place of delivery is a location outside the Keystone Central School District regularly maintained by the other party to the transaction, the receipts are non-allocable to the District and non-taxable.

5. ***Location of vendee.*** Receipts from the sale of goods, wares and merchandise delivered to vendees located outside the Keystone Central School District by an employee of the taxpayer who works in or from or is attached to the Keystone Central School District place of business of the taxpayer are fully taxable. However, if a Taxpayer sells products or merchandise in interstate commerce, receipts must be apportioned in accordance with Section 106(B) hereto.
6. ***15 day minimum for Business Activity.*** A taxpayer that does not maintain a business office within the District is taxable if he conducts Business Activity within the Keystone Central School District for all or any part of 15 separate calendar days within a given calendar tax year. Any taxpayer that maintains a business office within the District is taxable regardless of the number of days on which Business Activity is conducted within the District.

**B. Tax Rates.** The Business Privilege Tax rate is 1.0 mill (\$1.00 per \$1,000) on wholesale Gross Receipts and 1.5 mills (\$1.50 per \$1,000) on all other Gross Receipts.

### **Section 105. 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, real estate, 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 Activities for which local taxation has been preempted by the Commonwealth remain subject to tax by the District. 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 District, and the Commonwealth tax is measured by the same Gross Receipts sought to be taxed by the District, the District is prohibited from taxing the same subject and receipts. Where the subject and measure of the District tax is not identical to the subject and measure of the Commonwealth Tax, there is no duplication of the state tax and the District's Tax is not prohibited. Similarly, where the District imposes two different taxes that are not identical in subject or measure, a Taxpayer is subject to both taxes.

**Example:** A developer is in the business of building and selling single-family residential homes in the District. The developer pays Realty Transfer Tax on the sale of the homes and also pays a Business Privilege Tax based on its Gross Receipts. The developer's Gross Receipts are equal to the gross sales prices of its homes.

**The developer must pay both taxes. The District's Business Privilege Tax is imposed on the privilege of having a business in Keystone Central School District, and is measured by all of the Taxpayer's Allocable Gross Receipts. The Realty Transfer Tax is imposed on the transfer of real estate and/or recordation of the deed and is measured only by the gross sales price. Although gross sales price and Gross Receipts in the case of the developer may be equal amounts, neither the subject, nor the measure, of the two taxes is the same. Accordingly, the developer is not been subject to "double taxation" and must pay both taxes.**

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

**D. Utilities.** State law prohibits taxation with respect to certain public utility receipts. Gross receipts from utility service of a taxpayer who constitutes a "public utility" as that term is defined by the Public Utility Code, and whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission are exempt from tax. Gross receipts from the utility service of a taxpayer whose rates of service are not fixed and regulated by the Pennsylvania Public Utility Commission are not exempt from tax. Where a taxpayer has receipts from utility services some of which service rates are fixed by the Pennsylvania Public Utility Commission and some of which service rates are not fixed by the Pennsylvania Public Utility Commission, only those receipts from the rendering of services with rates fixed by the Pennsylvania Public Utility Commission are exempt from tax, even if the non-fixed rate services are

regulated by the Pennsylvania Public Utility Commission.

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

**The Gross Receipts from the rental activities are subject to Tax because the rental activities are considered unrelated to the church's charitable purpose. The Gross Receipts are also subject to tax on the grounds that the rental activities compete 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 IRS Form 990T (unrelated business income).

**The hospital's Gross 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.

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

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

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

Whether a particular activity qualifies as manufacturing will depend on the totality of the circumstances. Similar activities may be manufacturing in some circumstances but not manufacturing in other circumstances.

**Example 1.** Taxpayer A is an international food products provider. In a 400,000 square foot facility within the District, Taxpayer A produces many baked items, including loaves of sliced bread and frozen pizzas. Taxpayer A starts with flour, yeast, salt and other ingredients and, employing large mechanical equipment and computerized technology, combines the ingredients and then cuts, forms, proofs and bakes the products on a very large scale, averaging 10,000 products per day. The products are then sold to wholesalers and retailers around the country and internationally.

**Taxpayer A is a manufacturer for purposes of the activities described and is exempt from tax on the sale of the products described.**

**Example 2.** Taxpayer B is a pizza shop occupying 1,000 SF of space on Main Street. Taxpayer makes its own pizza dough from yeast, salt, flour and other ingredients. In response to orders from customers, Taxpayer B makes pizzas with various different toppings, as well as strombolis and calzones. Taxpayer also prepares/cooks and sells French fries, cheesesteaks, and salads, and also sells soft drinks. Taxpayer makes fewer than 100 pizzas per day.

**Taxpayer B is not a manufacturer of pizzas or any other food items that it sells. Taxpayer is not exempt from the tax.**

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

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

**Taxpayer's Gross Receipts are excluded from the tax.**

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

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

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

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

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



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

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

**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 (20) 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.** State law or Keystone Central School District's Resolution provides that the following specified receipts are excluded in the computation of Tax.

1. Discounts allowed to purchasers as cash discounts for prompt payment of bills.
2. Charges advanced by a Taxpayer for freight-out, delivery or other transportation for the purchaser in accordance with the terms of a contract of sale of goods, wares or merchandise.

**Example 1:** Taxpayer is a car dealer. Taxpayer enters into a contract of sale for a vehicle that he does not maintain on his lot. The cost of the vehicle is \$30,000. The cost to ship the vehicle to the customer is \$800.00. The sales contract provides that Taxpayer will advance the freight charges and requires the customer, upon delivery, to pay Taxpayer \$30,800 consisting of the sales price of the vehicle as well the reimbursement of the advanced freight charges.

**Taxpayer may exclude from his \$30,800 gross receipts the \$800.00 which represents payment of the advanced freight charges.**

**Example 2:** Taxpayer is a freight brokerage company. Taxpayer receives a freight shipment order from a customer, locates a common carrier to transport the freight shipment, and negotiates a contract with the freight carrier on behalf of the customer. Taxpayer charges its customer \$11,000 for its services. The charge is comprised of the delivery cost charged by the freight carrier in the amount of \$10,000,

plus Taxpayer's commission in the amount of \$1,000 for providing the brokerage services. Taxpayer then remits payment to the freight carrier and retains the remaining funds as its freight brokerage commission.

**Taxpayer must report the full \$11,000 as gross receipts. Taxpayer may not exclude the \$10,000 fee paid to the common carrier. Taxpayer is neither the seller nor the purchaser in the transactions at issue but merely a broker of services. Taxpayer is not a freight carrier, does not transport anything and does not sell anything that is transported. Moreover, there is no exclusion for pass through receipts. Taxpayer must report the full amount of \$11,000 as its gross receipts.**

3. Amounts received upon the sale of an article of personal property that was acquired by the Taxpayer as a trade-in to the extent that the Gross Receipts in the sale of the article taken in trade does not exceed the amount of trade-in allowance made in acquiring such article.

**Example:** Taxpayer is a car dealership selling a 2018 Ford F150 truck to a Customer A. The agreed upon price for the 2018 truck is \$32,500. In order to reduce the amount out of pocket for the purchase, Customer A trades in his 2015 Ford F150 truck for the price of \$17,500. Two weeks later, Taxpayer sells the traded-in 2015 F150 to Customer B for \$22,000.

**On the sale of the 2018 truck to Customer A, Taxpayer's gross receipts are \$32,500, since the value received was \$15,000 cash and a traded in vehicle valued at \$17,500. On the sale of the traded-in 2015 truck to Customer B, Taxpayer may deduct from the \$22,000 receipts the \$17,500 value at time of trade in. Therefore, on the sale to Customer B, Taxpayer must include only \$4,500 of the \$22,000 receipt. Total gross receipts to be reported for the two transactions is \$37,000.**

4. Refunds, credits or allowances given to a purchaser on account of defects in goods sold or merchandise returned.

5. Exchanges between sellers of identical goods, but not to the extent of any additional cash payment accompanying the exchange.

**Example 1:** Taxpayer is a car dealership negotiating with a customer regarding the purchase of a 2018 Toyota Highlander LE for \$30,000. Customer's heart is set on a white vehicle, but Taxpayer only has the same model with the same equipment in blue. Taxpayer contacts an affiliated dealership which has in its inventory the identical car in white, with all of the same equipment. The affiliated dealership agrees to an even exchange of the white 2018 Toyota Highlander LE for a blue 2018

Toyota Highlander that is in Taxpayer's inventory. Taxpayer then sells the white highlander to his customer for \$30,000.

**Taxpayer must include in gross receipts the \$30,000 received from his customer for sale of the white highlander. Taxpayer may exclude from gross receipts the value of the white highlander received from the affiliated dealer, since he exchanged a blue highlander of the same value.**

**Example 2.** Same facts as Example 1 above, except that the blue highlander in the Taxpayer's inventory has a navigation system valued at \$2,000, but the white highlander does not. In exchange for the blue highlander, the affiliated dealership gives Taxpayer not only the white highlander, but also a check for \$2,000.

**Taxpayer must include in gross receipts the \$30,000 received from his customer for sale of the white highlander, as well as the \$2,000 he received from the affiliated dealership in connection with the exchange of the blue highlander for the white highlander.**

6. Sales to other sellers in the same line where the seller transfers the title or possession at the same price for which the seller acquired the merchandise.

**Example:** Taxpayer A is a Lincoln dealership that is affiliated with another Lincoln dealership, Taxpayer B, located outside of the School District. Taxpayers A and B are separate and distinct legal entities. Taxpayer B is negotiating with a customer for the sale of a 2018 Lincoln Continental, but does not have the car in its inventory which the customer would like to purchase. Taxpayer A has the exact car in its inventory, which it acquired from the manufacturer for \$20,000. Taxpayer A sells the 2018 Lincoln Continental to Taxpayer B for \$20,000. Taxpayer B then sells the car to its customer for \$25,000.

**Taxpayer A may exclude from its gross receipts the \$20,000 for which it sold the Lincoln Continental to Taxpayer B. Taxpayer must be able to show both the price for which it acquired the vehicle and the price for which it sold the vehicle.**

7. Transfers between one department, branch or division of a corporation or other business entity of goods, wares and merchandise to another department, branch or division *of the same corporation or business entity* and which are recorded on the books to reflect such interdepartmental transactions.

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

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

**Sales tax that the Taxpayer collects on behalf of the Commonwealth may be excluded from Gross Receipts.**

**Federal fuels taxes that are imposed on the original producer may not be excluded, even if such taxes are shown at the gasoline pumps, since the federal gas tax is not imposed upon Taxpayer's customers, Taxpayer does not collect and remit such taxes to the Commonwealth, and Taxpayer is not charged with the duty of collecting and remitting such taxes.**

**At the time of adoption of these Regulations, it is the District's understanding that Commonwealth motor fuels taxes, although imposed on the distributor, may by law be passed on to the customer and a trust fund is created for any such taxes passed on, collected and remitted. In such a case, and assuming there is no change in the statutory law, case law, or the District's legal interpretation, Commonwealth motor fuels taxes that are collected from the customer and remitted to the Commonwealth, may be excluded from the Tax base.**

**Taxpayer may not exclude the amount of Pennsylvania Capital Stock Tax paid from its Gross Receipts.**

**IMPORTANT NOTE:** The Business Privilege Tax Resolution excludes from Gross Receipts certain commissions between Brokers. The Pennsylvania Courts have determined that this type of broker exclusion violates the Uniformity requirement, and is therefore unconstitutional in Pennsylvania. Consequently, the invalid provision is severed in accordance with the savings provision of the Resolution, and the broker exclusion is not permitted.

**H. Taxpayers Subject to the Business Privilege Taxes of Other Jurisdictions.** In order to avoid the potential of double taxation, Taxpayers subject to

a business privilege gross receipts tax in another Pennsylvania jurisdiction outside of Keystone Central School District may exclude gross receipts subject to tax in said other jurisdiction provided (1) the taxpayer is properly subject to tax in said other jurisdiction; (2) the taxpayer files returns in said jurisdiction; (3) the taxpayer pays the tax to said other jurisdiction when due; (4) the taxpayer properly attributes receipts to said other jurisdiction in a manner that fairly reflects the business activity in said other jurisdiction; and (5) taxpayer is not paying tax to said jurisdiction in order to avoid paying tax in Keystone Central School District.

**Section 106. Allocation of Receipts when Attribution is Not Possible; Apportionment of Receipts for Interstate Commerce.**

A. **Allocation of Gross Receipts to Business Conducted within the District.** Gross Receipts must be determined through direct attribution if possible, see Section 104.

**Example 1:** A plumbing contractor has a single business location in Keystone Central School District. He offers services to customers in numerous surrounding municipalities.

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

**Example 2:** An engineering firm has two offices; one in Keystone Central School District and another in the City of Reading. The firm separately accounts for revenues and expenses for each location.

**Gross Receipts separately identified for the location within Keystone Central School District are attributed to the District. Gross Receipts attributed to the Reading office are excluded from the District tax base, provided no part of the Reading activity is managed, directed or controlled from the District office.**

When it is impossible or impractical to identify a specific stream of revenue for the purpose of attributing gross receipts to the District, such as in the event a taxpayer has more than one Base of Operation in Pennsylvania and receipts are not directly tracked, gross receipts will be determined pursuant to the Allocation formula. The Allocation formula is based on two factors, the Property Factor and the Payroll Factor which are averaged to determine the Allocation Factor. Gross Receipts to be allocated to the Base of Operations in Keystone Central School District are determined by multiplying Taxpayer's total Gross Receipts by the Allocation Factor.

1. **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 Keystone Central School District and the denominator of the property factor is the value of tangible personal property and real property owned or leased by Taxpayer and situated in Pennsylvania. For purposes of this calculation, the value of leased property is eight (8) times the annual rental.

**2. Payroll Factor:** The numerator of the payroll factor is payroll for workers connected with the office located in Keystone Central School District and the denominator of the property factor is payroll for workers connected with all of Taxpayer's offices in Pennsylvania. 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.

**Example 1:** A law firm is based in Keystone Central School District and has a second office located in West Chester (Chester County). 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 \* 8) is \$1,150,000. Payroll and partners' compensation for workers based in the District is \$570,000 and property and annual rent (\* 8) in the District is \$862,500.

*The Allocation of Gross Receipts to the Keystone Central School District 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. Apportionment for Interstate Commerce.**

Gross Receipts resulting from sales or services with interstate characteristics are includable in the tax base on an apportioned basis. 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. The sale of interstate passenger tickets is considered to have interstate characteristics.

Apportionment of Gross Receipts in the context of Interstate Commerce will be made under the following formula:

<b>Total</b>	*	<b>Apportionment</b>	=	<b>Gross Receipts</b>
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Gross Receipts	Factor	Apportioned to Pennsylvania
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The Apportionment Factor shall be the product of averaging the total of the following percentages:

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

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

2. 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 (8) times the annual rental.

3. Gross Receipts from Pennsylvania sales and/or services, as a percentage of total Gross Receipts from sales and/or services. Pennsylvania gross receipts include sales to customers located in Pennsylvania and sales delivered to a Pennsylvania address, and/or gross receipts from services rendered within Pennsylvania, plus other income directly or indirectly related to Pennsylvania business activities.

For Taxpayers whose only Pennsylvania place of business is located in Keystone Central School District, Gross Receipts apportioned to Pennsylvania are entirely included in the tax base for Keystone Central School District Business Privilege Tax purposes. For Taxpayers with more than one Base of Operations in Pennsylvania, Gross Receipts may be further allocated between the Pennsylvania offices, per paragraph (A), above.

**ARTICLE II  
PARTICULAR BUSINESSES OR TRANSACTIONS**

**Section 200. General Applicability.**

Gross or Whole Volume of Business, or Gross Receipts, transacted within the

territorial limits of the District, means Gross Receipts connected with Business Activity occurring within the District or attributable to an office in the District. For business to be considered transacted within the territorial limits of the District, it must have a logical nexus to the Business Activity in the District. Gross Receipts include the gross consideration credited or received, such as cash, credits, or property of any kind or nature, in both cash and credit transactions by reason of any sale made, service rendered (including labor and any materials employed in or becoming part of the service), operation of any restaurant or other place where food, drink and refreshments are served, or commercial or business transactions in connection with any business, trade, occupation or profession.

Gross Receipts upon which the tax is imposed may not be diminished 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 tax 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 201. Affiliated Companies.**

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

#### **Section 202. Contractors Performing Building or Construction Work Outside the Keystone Central School District.**

See definition of Base of Operation in Section 101, above.

***Contractors with field offices.*** Contractors and subcontractors with places of business within the Keystone Central School District who are engaged in the performance of building and construction contracts at a point outside the territorial limits of the Keystone Central School District may exclude from the measure of the Tax the receipts derived therefrom, provided that (1) a field office was maintained on the premises of the project during the entire performance of the contract to such an extent as to constitute doing local business at the situs of the job and (2) if the locality in which the field office is situated imposes a gross receipts business privilege tax, the contractor or subcontractor that maintains the field office has paid the gross receipts business privilege or mercantile tax to said taxing authority on the receipts for which the contractor is seeking exclusion from the Keystone Central School District Tax.

#### **Section 203. Unearned Receipts.**

A Taxpayer's Gross Receipts from investments and other non-operating sources must be included in the tax base. Unearned receipts include, but are not limited to, interest,



dividends, royalties and/or distributive share of income from any flow-through entity (e.g., partnership, “S” corporation or limited liability company).

Unearned receipts may be excluded from Gross Receipts if the Taxpayer’s business activity is exempt from the Business Privilege Tax. However, if a Taxpayer has both exempt and non-exempt business activities, Gross Receipts from unearned receipts or revenue may be pro-rated.

**Section 204. Accountants, Architects, Engineers, Attorneys, Consultants, and Other Persons Providing Professional Services.**

Any professional who conducts Business Activity within the Keystone Central School District for all or any part of 15 separate calendar days, except as an employee of another, is subject to Tax on his receipts attributable to doing business in the District, whether or not he maintains a Base of Operation in the District. Any professional who maintains a place of business within the Keystone Central School District must include in taxable gross receipts his entire Gross Receipts regardless of the location of his/her client, except for receipts allocated or apportioned in accordance with Section 106 of these Regulations.

**Section 205. Sale of Capital Asset**

A. **General.** The profits (not gross proceeds) resulting from the sale of capital assets, such as plant machinery and equipment, furniture, fixtures, delivery equipment, etc., are to be included in the tax base. If a loss is sustained on such sales, it may not be offset against gross receipts from other sources. In computing the profits to be included in the tax base, the costs of the assets, less allowable depreciation, is to be deducted from the gross proceeds of sale.

B. **Asset located outside Keystone Central School District.** Where the capital asset sold was located at an established place of business of the taxpayer outside Keystone Central School District, the profit realized on the sale thereof may be excluded from the tax base.

C. **Bulk sale or exchange, merger.** Where a corporation realizes a gain as the result of a sale or exchange of substantially all of its assets, or as the result of a merger or consolidation with another corporation, the amount of such gain must be included in the tax base.

**Section 206. 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 nature of such pass-through payments or reimbursements must be evidenced in a writing establishing the requisite agency relationship and also must be 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.)
TOTAL	<u>\$57,347</u>

**Allen must include the finder's fee (\$5,000) and the reimbursed travel expenses (\$1,147) 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 Business Privilege Tax Resolution. 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 Administrator may reasonably require to establish 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 placement fee cost from Gross Receipts but may not exclude the photography or printing expenses.**

**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 Exclusions from Gross Receipts by the agency are allowed. No amount of the placement fee may be excluded 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 within Keystone Central School District if the transaction is handled through personnel connected to a Base of Operations in the District. Similarly, Gross Receipts include commissions on transactions managed, controlled, or directed through a Base of Operations within Keystone Central School District, even though settlement is conducted at a location outside Keystone Central School District.

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 206.

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 Gross Receipts, undiminished by the cost of the property or other expenses.

**Section 207. Other Brokers.**

Brokers must include receipts passed on to other brokers except where a Principal-Agent relationship is established in accordance with Section 206.

**Section 208. Persons Who Repair, Alter or Improve Tangible Personal Property.**

Persons with a Base of Operations in Keystone Central School District, 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 District are included in the tax base unless they may be excluded through Attribution, Allocation or Apportionment

as provided in Section 106 of these Regulations.

**Section 209. Persons Erecting Buildings or Altering, Repairing, or Improving Real Property.**

A contractor or subcontractor with a Base of Operations within Keystone Central School District, 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 work. 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 Keystone Central School District. Gross Receipts from work performed outside of Keystone Central School District may be apportioned in accordance with Section 106 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 101 (*Definitions: Base of Operations*).

**Section 210. Persons Paying Taxes to Other Municipalities.**

Where a Taxpayer files a tax return and pays a business privilege or Business Privilege Tax to a municipality outside of Keystone Central School District, receipts reported to that municipality may be excluded only if the Taxpayer has properly attributed receipts and paid tax to said other jurisdiction at the time such tax was due. See Section 105(H) of these Regulations.

**Section 211. Building Operators.**

Persons operating hotels, apartment houses, boarding/rooming houses, nursing homes, eldercare facilities, offices, or commercial real property in the District are considered to have a Base of Operations in the District and 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 attributable to the Base of Operations in Keystone Central School District.

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 Keystone Central School District and operating buildings or other real property outside the District must allocate receipts in accordance with Section 106 of these Regulations.

### **Section 212. 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 213. Wholesalers and Retailers.**

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

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

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

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

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

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

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

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

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

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

#### **Section 214. Vending Machines**

The entire gross receipts of vending machines and other mechanical devices which dispense goods, wares, and merchandise are to be included in the gross volume of business of the owner or lessor thereof. No deductions may be made therefrom for splits, rentals, commissions or other remunerations to persons in charge of the machines and/or to the lessees of the premises upon which the machines are located.

**ARTICLE III  
DECLARATION AND PAYMENT OF TAX**

**Section 300. Tax Returns and Computation of Tax.**

**A.** Due date for Business Privilege Tax Returns. Business Privilege Tax Returns are due annually on or before June 15.

Businesses that commence operations in the District before the beginning of the tax year but after January 1 of the full prior calendar year and which have been in business at least 100 days prior to June 15 of the tax year, must file an annual return on June 15.

A taxpayer that has not been in business for 100 days prior to June 15 of the tax year must file its first return 100 days after commencing business operations within the District.

Temporary or itinerant businesses are to file a return within 7 days of ceasing business operations within the District.

**B.** Each year's tax is based on the prior year's Gross Receipts. A final tax return is also due on June 15 following the date that a business terminates operations within Keystone Central School District and is based on actual Gross Receipts during the final year of operations within the Keystone Central School District.

**C.** Computation of Gross Receipts is made in the following manner:

1. Ongoing Business. Every person subject to the Tax must report as the tax base for the current year his actual gross receipts from the prior full calendar year.

2. New Business. If the business began operations in the District during the first nine (9) months of the calendar year, the taxpayer shall calculate tax due for the first year by averaging the first three months of business and multiplying the average by the number of months in operation during the tax year. In the second year of operations, gross receipts to be reported shall be the first 12 months receipts, even if some of those months fall within the second year.

If the business began operations in the last three months of the calendar year, the Tax base or gross receipts to be reported in the first year shall be the actual receipts of the year. For the second year, gross receipts to be reported shall be calculated by annualizing the gross receipts from the first 90 days of operation, even if some of the 90 days fall within the second year.

3. Temporary, seasonal or itinerant businesses. Businesses that are temporary, seasonal or itinerant by nature shall compute Gross Receipts upon the



actual Gross Receipts during the tax year.

### **Section 301. Extension of Time for Filing Returns.**

Keystone Central School District will recognize a valid federal extension of time to file a tax return for Business Privilege and Business Privilege Tax purposes, and therefore will not impose a penalty for late filing, only so long as all tax is paid to the District by the original due date for the tax return, and a copy of the federal extension is submitted by the original due date for the return. An extension of time to file a tax return is not an extension of time to pay tax associated with the return. No extension of time to pay tax is allowed.

### **Section 302. Penalty, Interest, and Late Fee**

When taxes are not paid by the due date, a non-discretionary 10% penalty is incurred. In addition there is a \$20 late fee imposed. Interest also accrues at the rate of 1% per month or any fractional part of a month.

**Example.** Taxpayer files its tax return on June 30, instead of June 15, 15 days late. The gross receipts reported are 100,000 in retail sales. Taxpayer owes a tax principal of \$150. Taxpayer owes a penalty of \$15. Taxpayer owes a late fee of \$20. Taxpayer owes interest in the amount of \$1.50, since 1% monthly interest is not pro-rated, but accrues as of the first day of the delinquent month.

### **Section 303. Filing to Be Complete.**

Tax returns shall be completed in full and certified as true and correct by the Taxpayer. Taxpayers must attach copies of state or federal tax returns, schedules and worksheets, to 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 304. Accounting Methods (Cash or Accrual).**

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

### **Section 305. Records to be Kept.**

Every Taxpayer is required to keep such books, accounts and records as will enable the filing of true and accurate declarations and returns. Such books, accounts and records shall be sufficiently complete as to enable the Administrator or his/her designee to verify the accuracy of the declarations or tax returns filed. Taxpayers shall preserve all books, accounts and records for a period of not less than six (6) years.

**ARTICLE IV  
ADMINISTRATION AND ENFORCEMENT**

**Section 400. 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 Keystone Central School District. The Disclosure Statement is attached hereto as Addendum A.

**Section 401. Verification of Records, Audits, Response Periods, Prior Year Returns.**

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

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

**B. Minimum Time Periods for Taxpayer Response.** Taxpayers shall have at least thirty (30) calendar days from the mailing date to respond to an initial request for information from the District. The Tax Administrator 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 District's Resolutions and Regulations may include taxes required to be paid or tax returns required to be filed no more than three (3) years prior to the mailing date of the notice of such inquiry. If, after the initial request, the Tax Administrator or his/her designee determines that the Taxpayer failed to file a tax return, underreported income, or failed to pay a tax for one (1) or more of the tax periods covered by the initial request, subsequent requests for tax returns or supporting information may be made. Subsequent requests will be limited to two (2) additional years (for a total of five (5) years prior to the first date of

initial inquiry), unless the Taxpayer filed no tax return or filed a fraudulent return, in which case the District may request information for another additional year (for a total of six (6) years prior to the first date of initial inquiry). Note, however, that in the event the Tax Administrator has sufficient information to indicate that a Taxpayer has failed to file a required tax return or pay tax that was due more than three (3) years prior to the date of the notice, an initial request is not limited to three (3) years and may include as many as six (6) years prior to the date of the initial inquiry.

#### **Section 402. Procedures for the Conduct of Taxpayer Audits.**

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

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

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

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

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

**D. Use of Estimates.** In the event that the information, books and records provided by the Taxpayer are not sufficient for the purpose of verifying the correct amount of tax, the Tax Administrator is authorized by the Ordinances 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 403. Examination of Tax Return; Notice of Assessment.**

**A. Examination of Tax Return.** The Tax Administrator shall examine every tax return as soon after filing as practical to determine the correct amount of tax according to the filing. If the Tax Administrator finds that the amount of tax shown on the tax return is less than the correct amount, the Tax Administrator 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 District has relied to determine that an underpayment exists.
4. An itemization of the revisions made by the District to a tax return filed by the Taxpayer that result in the determination that an underpayment exists.

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

**B. No Tax Return Filed.** If a Taxpayer fails to file any required tax return, the Tax Administrator 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 404. Petition for Reassessment.**

Within ninety (90) days of the date of a Notice of Assessment, the Taxpayer may make a request for reassessment by completing and submitting a Petition for Review by the Local Tax Review Board that will be forwarded for decision to the Board of School Directors. See Section 412 (*Taxpayer Appeals*).

#### **Section 405. Refund of Overpayment; Interest on Overpayment.**

**A. Taxpayer Request for Refund of Overpayment.** Any Taxpayer who has made an overpayment of tax to the District may file a written request with the Tax Administrator for a refund or credit. A request for refund shall be made within three (3) years of the due date for filing the tax return, or one (1) year after actual payment of the tax, whichever is later. If no return (or report) is required, the request shall be made within three (3) years after the due date for payment of the tax or within one (1)

year after actual payment of the tax, whichever is later. A request for refund shall not be considered complete and filed unless and until all information necessary for the District to determine the merits of the request have been received by the District.

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

2. **Refund request not a Petition for Review by Local Tax Hearing Officer.** A request for refund under this section shall not be considered a Petition for Review and shall not preclude a Taxpayer from submitting a Petition for Review. See Section 412 (*Taxpayer Appeals*).

3. **Refund after Notice of Assessment.** For amounts paid as a result of a Notice asserting or informing a Taxpayer of an underpayment, a written request for refund shall be filed with the District within one (1) year of the date of the payment.

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

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

2. **Accrual of Interest.** No interest shall be allowed if an overpayment is refunded (or applied against any other tax, interest or penalty due the District) within seventy-five (75) days after the last date prescribed for filing the report of the tax liability or within seventy-five (75) days after the date 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 District’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 District shall be deemed to be acceptance of the check by the Taxpayer.

#### **Section 406. Abatement of Certain Interest and Penalty.**

A. **Errors and Delays.** In the case of any underpayment, the District *may*, but is not required to, 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 District 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 District 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 District being erroneous or dilatory in performance of a ministerial act. The Tax Administrator shall determine what constitutes timely performance of ministerial acts.

**B. Erroneous Written Advice by District.** The District *must* 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 District, 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 407. Installment Agreements.**

To facilitate collection, the District 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 District may terminate any installment agreement if: (a) information provided to the District prior to the date of the agreement was inaccurate or incomplete, or (b) the District believes that collection of the tax under the agreement is in jeopardy.

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

**C. Breach of Installment Agreement.** The District 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 District.

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

#### **Section 408. Payment Under Protest.**

The Tax Administrator 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 Tax Administrator may accept partial payment of any amount due without waiver of the District’s right to collect the balance due.

#### **Section 409. Violations; Interest on Underpayment and Penalties.**

**A. Interest on Underpayment.** If any amount of tax imposed by the Tax Resolutions is not paid on or before the last date prescribed for payment, interest on such amount at the rate of one percent (1%) per month, or any part 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 406.A. and 406.B. (*relating to errors and delays by the District and erroneous written advice from the District*), interest is mandatory and cannot and will not be abated. If a payment is late for even one day during a month, the entire 1% monthly interest is due and payable.

**B. Penalty.** If any amount of tax imposed by the Tax Resolution is not paid on or before the last date prescribed for payment, there shall be added to the tax for the taxable year an amount equal to 10 percent (10%) of the amount of the tax due. Except as provided by state law, as reflected in Section 406.B. (*relating to erroneous written advice from the District*), penalty is mandatory and cannot and will not be abated.

**C. Fine.** Any Taxpayer (including any officer, agent, or employee thereof) who knowingly fails to remit any tax due, fails to file complete and correct reports or tax returns when due, fails to provide access to books, paper and records, or makes a false or fraudulent tax return, may be subjected to a fine of \$500.00 and costs of enforcement (such as attorneys’ fees) for each offense.

#### **Section 410. Confidential Nature of Tax Information.**

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

#### **Section 411. Dishonored Checks or Electronic Payments.**

If any check or electronic payment (such as an electronic funds transfer, e-check, Automated Clearing House (“ACH”) transfer, direct debit and debit cards) received in payment of taxes is returned unpaid by a financial institution, there shall be added to the tax due the sum charged for such dishonored payments established from time to time by the District.

### **Section 412. Taxpayer Appeals.**

A Taxpayer may appeal any assessment, determination or denial of refund of tax by filing a Petition for Review. All Petitions shall be mailed or delivered to: Keystone Central School District Tax Officer, 86 Administration Drive, Ste. 2, Mill Hall, PA 17751.

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

**A. Petitions for Review.** 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 Administrator’s office at the address shown above.

**B. Contents of Petition for Review.** Petitions shall: (1) state the name, address and telephone number of the Taxpayer and Taxpayer’s authorized representative (if applicable), (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, and (5) certify under penalty of perjury that the facts in the Petition are true and correct and that the Petition is not filed for purposes of delay.

**C. Deadlines for Filing Petition for Review.**

1. A Petition seeking a refund must be filed within three (3) years after the due date for filing the report, or one (1) year after actual payment of tax, whichever is later. If no report is required, the Petition shall be filed within three (3) years after the due date for payment of the tax or within one (1) year after actual payment, whichever is later.



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

**D. Appeals Process and Procedure.** Upon receipt of a timely filed Petition for Review, the Tax Administrator shall deliver the petition to the School Board of Directors which shall consider the Petition in an executive session. The Board shall render its decision in writing to the taxpayer within 60 days of the date of actual receipt of the complete and accurate petition by the District. Failure of the District to render a decision within 60 days shall result in the petition being deemed approved. In its discretion, the Board may require testimony, which shall be under oath, but is not required to be recorded.

The Board shall determine the petition according to the Keystone Central School District tax ordinances, rules, regulations, and principles of Pennsylvania law and equity. The Board shall consider any position statement(s) submitted by the Tax Officer concerning the petition. The decision of the Board of School Directors shall be timely made if notice of the decision is mailed to the taxpayer, postmarked no later than 60 days after the date of actual receipt of the complete and accurate petition by the District.

**Section 413. Judicial Appeal.**

Any person aggrieved by a decision of the Board of School Directors on a properly filed Petition for Review, who has a direct interest in the Decision, has the right to appeal to the Court of Common Pleas of Clinton County, Pennsylvania for a *de novo* review.

**Section 414. Construction.**

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

**END**

**ADDENDUM A (Disclosure Statement)**

**KEYSTONE CENTRAL SCHOOL DISTRICT  
LOCAL TAXPAYER BILL OF RIGHTS  
DISCLOSURE STATEMENT**

Taxpayers within the Keystone Central School District are entitled to receive a written explanation of rights with regard to the audit, appeal, enforcement, refund and collection of local taxes. This Local Taxpayer Bill of Rights Disclosure Statement is the required explanation of rights and obligations.

This Local Taxpayer Bill of Rights applies with respect to the following taxes imposed by the Keystone Central School District pursuant to the Local Tax Enabling Act: Business Privilege Tax, Local Services Tax. This Local Taxpayer Bill of Rights, including audit and appeals procedures, does not apply to the Earned Income Tax or the Real Estate Tax, each of which has its own audit and appeal procedures.

I. Rights of the Taxpayer and Obligations of the District During an Audit or Administrative Review of the Taxpayer's Books and Records.

A. District Requests for Information.

1. The District, its Auditor, its Solicitor, or other designated representative, is authorized to examine the books and records of any taxpayer in order to verify the accuracy of any return made, or if no return was made, to ascertain whether the tax should be imposed and, if so, the amount of the tax due.
2. The District may request information from a taxpayer concerning the taxpayer's compliance with District tax ordinances. Books, journals, invoices, documents and other accounting records utilized by the taxpayer in the ordinary course of business must be kept in a manner which will reflect actual business operations. There must be objective criteria in these books and records, as well as in underlying documents, such as invoices, to support the returns filed by the taxpayer. A taxpayer claiming an exemption or exclusion for any portion of gross receipts or other taxes, must maintain complete records which will support the validity of such claims. Such claims will be disallowed if not sufficiently proven by the taxpayer.
3. Except as otherwise provided herein, an initial inquiry by the District for information regarding the taxpayer's compliance with District tax ordinances 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 inquiry notice.
4. However, the District may make a subsequent request for tax

returns or supporting information if, after the initial request, the District determines that the taxpayer has failed to file a tax return, has underreported income or receipts, or has failed to pay a tax for one or more of the tax periods covered by the initial request.

5. In the event the District has sufficient information to indicate that the taxpayer has failed to file a required return or to pay a tax which was due more than three years prior to the date of the notice, the three year limitation shall not apply and the District may request information for any such tax years.
6. The District may require any taxpayer to provide copies of the taxpayer's federal and state income tax return(s), and all other documents necessary for verification of the taxpayer's compliance status. The District shall require individuals to provide federal tax returns only where the federal tax information is reasonably necessary for the enforcement or collection of an eligible tax and the information is not available from other sources or the Department of Revenue.
7. Any information obtained by the District as a result of any audit return, report, investigation, hearing or verification shall be confidential tax information, except as provided by law. However, the information on any license application shall be a public record.

B. Taxpayer Response.

1. *Thirty days to respond.* When the District makes an initial request for information from the taxpayer, the taxpayer shall have at least 30 calendar days from the mailing date of the request, to respond.
2. *Extensions.* Upon written application by the taxpayer submitted to the District (or its Auditor, if the request for information is from the Auditor) within the initial 30 day period, and where good cause for an extension exists, the District shall grant an extension of time to respond for a reasonable amount of time.
3. *No action by the District within the response period.* The District shall take no lawful action against a taxpayer for the tax year(s) in question, until the expiration of the response period.
4. The books, journals, invoices, and other accounting records of the taxpayer as used in its ordinary course of business must be kept in a manner which will reflect actual business operations of the taxpayer. The books and records of the taxpayer must contain

objective criteria to support the returns filed by the taxpayer. A taxpayer claiming an exemption or exclusion for any portion of gross receipts or other taxes, must maintain complete records which will support the validity of such claims. Such claims will be disallowed if not sufficiently proven by the taxpayer.

5. The taxpayer is required, at its cost, to make all records available to the District to support the returns which were filed, or should have been filed, by the taxpayer. If the taxpayer does not have records for the entire period requested for review, the District may utilize whatever information or records are available to reconstruct, as accurately as possible, the figures that reflect the business activity of the taxpayer for the period involved.

C. Audit. The District has the right to have a designated representative audit or examine any tax return and any taxpayer's books and records, to verify accuracy and to assess or reassess the amount of tax due. In the event a taxpayer has failed to file a required return, the District has the right to have its auditor examine the books and records of the company, or such other information as is available, to determine and assess the amount of tax due. The District has the right to audit any taxpayer or supposed taxpayer in order to determine taxability and tax due.

D. Notice of Basis of Underpayment.

1. The District will notify the taxpayer in writing of the basis for any underpayment that the District has determined to exist, including: (a) the tax period(s) for which the underpayment is asserted; (b) the amount of the underpayment detailed by tax period; (c) the legal basis upon which the District has relied to determine that an underpayment exists; and (d) an itemization of the revisions made by the District to a return or report filed by the taxpayer that results in the determination that an underpayment exists.
2. Unless otherwise specified by the taxpayer, the District shall apply all voluntary payments of taxes first to taxes owed, then to interest, then to penalty; and then to any other fees and charges.

E. Abatement of Certain Interest and Penalties.

1. *Errors and delays.* In the case of an underpayment, where the District has contacted the taxpayer in writing with respect to the underpayment of tax finally determined to be due or payable, the

District may abate all or any part of interest for any period, if the underpayment is attributable in whole or in part to any error or delay by the District in the performance of a ministerial act; provided, that no significant aspect of the error or delay is attributable to the taxpayer. The District shall determine what constitutes timely performance of ministerial acts.

2. *Erroneous written advice by the District.* The District is not required by law to provide written advice to taxpayers. However, the District shall abate any portion of penalty or interest which is attributable to erroneous advice furnished to the taxpayer in writing by an officer, employee or agent of the District acting in his or her official capacity, in the following circumstances:
  - a. the written advice was in response to a specific written request of the taxpayer; and
  - b. the taxpayer reasonably relied upon the written advice; and
  - c. 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.

Taxpayer should not rely on advice given which is not in writing and in response to a specific written request.

F. Installment Agreements.

In order to facilitate collection, the District, at its discretion, may enter into written agreements with any taxpayer under which the taxpayer is allowed to satisfy a tax liability in installment payments. The District, at its election, may modify or terminate any installment agreement where:

1. the taxpayer has provided inaccurate or incomplete information;
2. the District believes that collection of the tax under the agreement is in jeopardy;
3. the District finds that the financial condition of the taxpayer has significantly changed and has given 30 days notice of the finding and reasons for the finding to the taxpayer;
4. the taxpayer fails to pay any installment at the time due under the agreement;
5. the taxpayer fails to pay any other tax liability at the time the liability is due; or
6. the taxpayer fails to provide a financial condition update as requested by the District.

II. Procedure for Filing and Processing Refund Claims and Taxpayer Complaints.

A. *Requests for Refunds.* A taxpayer who has paid a tax to the District may file a written request with the District for refund or credit of the tax.

1. Except as otherwise provided herein, all refund requests must be made within three years of the due date for filing the return or report, as extended, or one year after actual payment of the tax, whichever is later.
2. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for refund must be filed with the District within one year of the date of payment.
3. If no report or return is required, the refund request 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.
4. For purposes of this section, a tax return filed by the taxpayer with the District which shows an overpayment of tax shall be deemed to be a written request for a cash refund if the taxpayer provides all necessary documentation to support taxpayer's right to refund. If the taxpayer indicates on the return that taxpayer desires the overpayment to be applied as a credit toward other taxes, the return showing the overpayment shall not be deemed a written request for cash refund.
5. A request for refund under this section is not considered a petition for administrative appeal, as described in section III hereof, and shall not preclude a taxpayer from submitting a petition under section III hereof.

B. *Interest on overpayment.* All overpayments of a tax due to the District, including taxes on real property, shall bear simple interest from the date of overpayment until the date of resolution.

1. *Interest rate.* 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 known as the Fiscal Code.
2. *Exceptions.* No interest shall be allowed if an overpayment is refunded or applied against any other tax, interest or penalty due to the District 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. *Overpayments of interest or penalty.* Overpayments of interest or penalty shall not bear any interest.
4. *Acceptance of Refund Check.* Tender of a refund check by the District shall be deemed to be acceptance of the check by the taxpayer for purposes of this section. The taxpayer's acceptance of the District's check shall not prejudice any right of the taxpayer to claim any additional overpayment and interest thereon. "Date of overpayment" and "date of resolution" shall be defined in accordance with Pennsylvania Act 50-1998.

C. *Taxpayer Complaints.* All taxpayer complaints shall be directed to the District Superintendent at the District Superintendent's Office.

### **III. Administrative and Judicial Procedures by Which a Taxpayer May Appeal or Seek Review of Any Adverse Decision of the District.**

A. *Petitions.* A taxpayer may file a petition for review of assessment determination, or refund, with the Keystone Central Board of School Directors.

1. 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.
2. A petition for refund must be filed within three years after the due date for filing the report or return, as extended, or within one year after actual payment of the tax, whichever is later. If no report or return is required, the petition shall be filed within three years after the due date for payment of the tax or within one year after actual payment, whichever is later.
3. A petition for reassessment of a tax shall be filed within 90 days of the date of the assessment notice or notice of underpayment.
4. The Board of School Directors shall deny all petitions not timely filed.
5. All petitions must be submitted on the Petition Form provided by the District.
6. Requests for review of assessment determination, or refund, which are not submitted on the designated form are null and void, and the District is not required to respond to them. Non-response to a request for review that is not submitted on the designated form and which is therefore deemed null and void, shall not be



subject to deemed approval as discussed below in subsection (7), directly below.

7. The Board of School Directors will consider the Petition in an executive session. The Board shall render its decision in writing to the taxpayer within 60 days of the date of actual receipt of the complete and accurate petition by the District. Failure of the District to render a decision within 60 days shall result in the petition being deemed approved. In its discretion, the Board may require testimony, which shall be under oath, but is not required to be recorded.
8. The Board shall determine the petition according to the Keystone Central School District tax ordinances, rules, regulations, and principles of Pennsylvania law and equity. The Board shall consider any position statement(s) submitted by the Tax Officer concerning the petition. The decision of the Board of School Directors shall be timely made if notice of the decision is mailed to the taxpayer, postmarked no later than 60 days after the date of actual receipt of the complete and accurate petition by the District.
9. Any person aggrieved by a decision of the Board of School Directors, who has a direct interest in the decision, shall have the right to appeal to the Clinton County Court of Common Pleas, and there shall receive a hearing *de novo*.

#### **IV. Enforcement Procedures.**

- A. The District, its designee, or the District Solicitor has the power to collect unpaid taxes, interest and penalties in the name of the District from the persons owing such amounts, by institution of a civil action, by imposition of a municipal lien, or by any other appropriate remedy.
- B. The District, its designee, or the District Solicitor, has the power to file a civil complaint in the Magisterial District Court having jurisdiction, for violation of any District tax ordinance. The tax ordinances provide for fines in the amount of \$500 per day, per violation. The District may choose to file such a complaint seeking fines against the taxpayer itself, or any of its individual partners, officers or members.
- C. In all legal actions, the District has the power to demand and collect costs and attorneys fees from the taxpayer.

## **ADDENDUM B (Petition for Review)**

**KEYSTONE CENTRAL SCHOOL DISTRICT  
PETITION FOR ADMINISTRATIVE REVIEW/APPEAL**

This form is to be used by taxpayers to appeal an assessment of tax (other than real property taxes or earned income taxes) levied by Keystone Central School District (the "District") and/or to appeal a denial of a claim for refund of taxes previously paid. Please type or print legibly.

**IMPORTANT INSTRUCTIONS:** You must attach a copy of the Notice of Assessment being appealed, or if seeking a refund, proof that such tax was paid. Petitions appealing a Notice of Assessment must be received by the District within 90 days of the date of the Notice of Assessment. Petitions for refunds must be received by the District no later than: (a) three years of the due date for filing the tax return; or (b) one year after the actual payment of the tax (whichever is later). Petitions filed by mail will be considered filed as of the postmark date. Answer all questions on this form as fully as possible. If an item is not applicable, enter "N/A."

Mail or deliver the Petition to: Keystone Central School District, Attn: Tax Officer, 86 Administration Drive, Ste. 2, Mill Hall, PA 17751. For additional information, visit [www.kcsd.k12.pa.us](http://www.kcsd.k12.pa.us) or call the Tax Office: (570) 893-4913.

**SECTION A: TAXPAYER INFORMATION**

\_\_\_\_\_  
Full Legal Name of Business

\_\_\_\_\_  
Trading as (if applicable)

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Telephone number

Physical Street Address in Keystone Central School District – if different from above

\_\_\_\_\_  
City State Zip Code

Taxpayer Identification Number: \_\_\_\_\_



**SECTION C: TAXPAYER REPRESENTATIVE INFORMATION**

COMPLETE INFORMATION FOR REPRESENTATIVE (if applicable). I hereby  
nominate the following as my representative:

\_\_\_\_\_

Last Name	First Name	Middle Initial
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My Representative is a/an: \_\_\_\_\_ Attorney  
\_\_\_\_\_ CPA  
\_\_\_\_\_ Other Tax Advisor

Firm: \_\_\_\_\_

\_\_\_\_\_

Street/Mailing Address

\_\_\_\_\_

City	State Zip Code
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Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Would you like copies of all correspondence sent to your representative? \_\_\_\_\_

**SECTION D: RELIEF REQUESTED & ARGUMENTS**

Explain in detail why the relief requested in Section B, above, should be granted and give supporting authority (such as ordinances, regulations, statutes and/or case law). 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 E: SIGNATURE**

All Petitions must be signed by Petitioner or the Petitioner’s authorized representative. If signed by an authorized representative, written authorization for the representative to sign on Petitioner’s behalf must be accompanied by 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 and this Petition is not filed for purposes of delay.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

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

Email address: \_\_\_\_\_

