

Borough of Avalon
Resolution No. 910- 1998

A RESOLUTION OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY AND COMMONWEALTH OF PENNSYLVANIA, APPOINTING THE AVALON BOROUGH SOLICITOR AS THE HEARING OFFICER TO CONDUCT HEARINGS AND RENDER DECISIONS RELATING TO THE ASSESSMENT, DETERMINATION OR REFUND OF ELIGIBLE TAXES, PURSUANT TO THE LOCAL TAXPAYERS BILL OF RIGHTS, 53 Pa.C.S. § 8430(c).

WHEREAS, the Local Taxpayers Bill of Rights, 53 Pa.C.S. § 8421, et seq., requires that all local taxing authorities levying eligible taxes establish an administrative process to receive and make determinations from taxpayers relating to the assessment, determination or refund of eligible taxes; and

WHEREAS, it is the desire of the Borough of Avalon to appoint the Avalon Borough Solicitor as its Hearing Officer pursuant to the Local Taxpayers Bill of Rights, to conduct such hearings, to make determinations and to render decisions from taxpayers relating to the assessment, determination or refund of eligible taxes.

NOW THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED WITH THE AUTHORITY OF SAME:

SECTION 1. APPOINTMENT OF HEARING OFFICER. The Avalon Borough Solicitor is hereby appointed the Hearing Officer for the Northgate School District and the Borough of Avalon, to conduct hearings, to make determinations and to render decisions from taxpayers relating to the assessment, determination or refund of eligible taxes pursuant to the Local Taxpayers Bill of Rights.

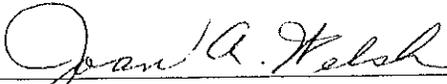
SECTION 2. EFFECTIVE DATE. This Resolution shall be effective January

1, 1999.

SECTION 3. REPEALER. Any Resolution conflicting herewith is repealed.

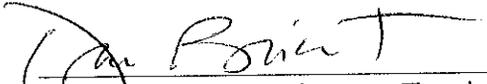
ATTEST:

BOROUGH OF AVALON


Secretary


Harry Dilmore
President of Council

Examined and Approved by me this 16th day of February, 1999.


Mayor Daniel K. Bricmont, Esquire

**Northgate School District
and Borough of Avalon**

**Disclosure Statement of the
Northgate School District and Borough of Avalon**

Taxpayer's Rights and Obligations

Disclosure Statement of the Northgate School District and the Borough of Avalon

Taxpayers Rights and Obligations

It is the obligation of all taxpayers in the Northgate School District and the Borough of Avalon, to file timely all tax returns and to pay all taxes to which they are subject. However, when the School District and Borough, through their 511 Tax Collector, determine that a required tax return has not been filed, or that a certain tax has not been paid, the School District and the Borough have certain rights granted by law that describe how taxpayer's obligations may be enforced. In conjunction with the rights of the School District and the Borough, the Commonwealth of Pennsylvania now has a Local Taxpayers Bill of Rights which provides certain legal rights for taxpayers, and creates certain obligations for the School District and the Borough so that equity and fairness control how these requirements are enforced.

Northgate School District and Borough of Avalon Requests for Information

When the Northgate School District and Avalon Borough request tax information from a taxpayer, the taxpayer has the following rights:

- A taxpayer shall have thirty (30) days from the mailing date of the Request for Information to respond to the request of the School District and the Borough.
- Upon written request, the School District and the Borough will grant reasonable time extensions for good cause shown.
- An initial School District and Borough request may cover only 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 request.*
- The School District and the Borough may make a subsequent request relating to other taxes or returns if, after the initial request, the School District and the Borough determine that the taxpayer failed to file a tax return, underreported income, or failed to pay a tax for one or more of the tax periods covered by the initial request.

** NOTE however that this requirement shall not apply if the Northgate School District and Avalon Borough have sufficient information to indicate that the taxpayer failed to file a required return or pay an eligible tax which was due more than three (3) years prior to the date of the notice.*

**Northgate School District
and Borough of Avalon**

Notice of Disclosure Statement

You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes by calling the 511 Tax Collector of the Northgate School District and the Borough of Avalon, at (412) 761-3452, during the hours of 9:00 a.m. to 5:00 p.m.

**Information Request
Time Extension Procedure Notice**

Under Pennsylvania law, (53 Pa.C.S. § 8424, Act 50), you have thirty (30) calendar days from the mailing date of this Information Request to respond by:

- (1) Providing the 511 Tax Collector with the requested information; or
- (2) Requesting an extension of time in which to provide the requested information.

If you need an extension of time you must send a written request specifying the reasons for the extension and the facts supporting those reasons, to the following address:

511 Tax Collector
Northgate School District and Borough of Avalon
640 California Avenue
Pittsburgh, PA 15202

Reasonable time extensions will be granted for good cause. The 511 Tax Collector will notify you in writing of whether a time extension has been granted. If your request is granted, the 511 Tax Collector will inform you of the length of the extension. If your request is denied, the 511 Tax Collector will inform you of the basis for its denial and that you must immediately provide the requested information.

Taxpayer's Rights During an Audit

During an audit by the Northgate School District and Avalon Borough, a taxpayer has the following rights:

- A taxpayer has the right to be represented. Notice of representation must be forwarded to the Northgate School District and Avalon Borough in writing, signed by the taxpayer and must contain an authorization stating that the named representative is permitted to view and discuss confidential taxpayer information. A notice, decision or other written communication from the School District and the Borough to the taxpayer, may be given to the taxpayer's authorized representative, and any such notice, decision or other written communication shall have the same effect as if given to the taxpayer directly. Action taken by a taxpayer's authorized representative shall have the same force and effect as if taken by the taxpayer.
- A taxpayer has the right to expect that all information requested by and submitted to the School District and the Borough will remain confidential and will only be used for official purposes or as provided by law.
- A taxpayer has the right to expect a "reasonable time" (30 days from date of notice) to respond to requests for information from the School District and the Borough.
- A taxpayer has the right to request extensions of time to respond to requests for information, if there is "good cause" for such extensions.
- The School District and the Borough shall notify the taxpayer in writing of the basis of any underpayment or overpayment determined by the audit.
- A taxpayer has the right to appeal or seek review of any adverse decision of the 511 Tax Collector of the Northgate School District and Avalon Borough.

The Duties and Obligations of the Northgate School District and Avalon Borough During an Audit

During an audit of a taxpayer by the Northgate School District and Avalon Borough:

- The Northgate School District and Avalon Borough shall provide the taxpayer with a copy of this Disclosure Statement.
- The School District and the Borough shall respect the confidential nature of information gained through the audit process.

- The School District and the Borough shall prepare and provide to the taxpayer a written explanation of the assessment of any tax liability determined during the audit (including the tax period, breakdown of amount due, legal basis and itemized revisions of tax returns).
- The School District and the Borough shall process the audit in a timely fashion upon receipt of all applicable information.
- The School District and the Borough shall conduct a post audit conference with the taxpayer at which time an employee or representative of the Northgate School District and Avalon Borough will explain the audit findings and make recommendations to the taxpayer on how to correct areas of noncompliance.
- The School District and the Borough shall explain the taxpayer's right to appeal the assessment of any tax liability determined during the audit.
- The School District and the Borough shall take no lawful action against a taxpayer for any tax year in question until the expiration of the applicable response period and extensions.

The School District and the Borough may require the taxpayer to provide exact copies of the taxpayer's federal tax returns if the School District and the Borough can demonstrate that the federal tax return is reasonably necessary and the information is not available elsewhere, or from the Pennsylvania Department of Revenue. The taxpayer is solely responsible for obtaining the information and for any costs associated with obtaining the records and information.

Taxpayer's Appeal Rights
Appeals to Borough Solicitor
From Decisions of the 511 Tax Collector

To appeal any adverse decision of the 511 Tax Collector, the taxpayer must file a petition with the Solicitor of Avalon Borough. The petition must be filed with the Solicitor within 90 days of the date of the adverse decision by the 511 Tax Collector. The petition will be considered 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. Hand delivered petitions will be considered filed on the date received. The burden is on the taxpayer to prove that a Petition was filed timely.

Appeal petitions should be mailed via First Class mail or delivered to

Avalon Borough Solicitor
Northgate School District and Avalon Borough
Earned Income Tax Department
640 California Avenue
Pittsburgh, PA 15202

The Solicitor shall review the case as it is provided by the taxpayer along with the information the 511 Tax Collector relied upon to make the initial decision. Within ten (10) days of the filing date of an appeal petition, the 511 Tax Collector shall submit his or her position on the action that precipitated the petition to the Borough Solicitor. All decisions on petitions filed with the Borough Solicitor shall be issued within 60 days of the date a complete petition is received. Failure of the Borough Solicitor to act within 60 days shall result in the petition being deemed approved.

Contents of Tax Appeal Petitions

All Petitions shall be filed with the Borough Solicitor at the above address and must be filed within the time limits explained in this Disclosure Statement. Petitions *must* be in writing and signed by the taxpayer, (if the taxpayer is an entity, a partner or officer *must* sign the Petition), dated, and *must* contain:

- The taxpayer's name, address and telephone number;
- If the taxpayer is represented by an attorney, accountant or other qualified individual, the name address and telephone number of the representative together with an authorization for the School District, the Borough, and the Borough Solicitor to discuss confidential information with the representative;
- Designation of the tax to which the petition relates, including the tax year or other period and tax amount. A copy of any tax bill, refund request denial or other essential document relating to the petition shall be attached.
- The taxpayer's account number, social security number, employer identification number of other appropriate designation;
- A detailed statement in separately numbered paragraphs of the reasons requiring a refund, or the objections to the assessment or notice of underpayment being appealed, and the facts supporting such reasons or objections;
- A statement specifying the relief requested by the taxpayer;
- A statement indicating whether or not a hearing with the Borough Solicitor is requested; and

- A statement by the taxpayer certifying that the facts contained in the Petition are true and correct to the taxpayer's knowledge and belief and that the Petition is not filed for purposes of delay.

If a Petition fails to satisfy the above requirements, the Borough Solicitor may request the taxpayer to submit the missing information or may render a decision on the information in the Petition. If additional information is requested, the taxpayer's failure to submit the requested additional information within thirty (30) days of the date of the request shall result in a dismissal of the Petition.

Tax Appeal Petition Practice and Procedure

Practice and Procedure before the Borough Solicitor relating to tax appeal petitions and petitions for refunds are not governed by the Local Agency Law.

Representation

A taxpayer or an officer or partner of an entity taxpayer may file a petition and appear at any hearing, or may be represented by a person possessing appropriate education, training or experience to represent taxpayers in taxpayer appeals. There is no requirement that a taxpayer be represented by an attorney or certified public accountant. A taxpayer's representative must be authorized in writing to represent the taxpayer. A letter signed by the taxpayer, or a listing as a representative in the petition, signed by the taxpayer, will be accepted as authorization for representation.

A notice or other written communication from the Borough Solicitor to the taxpayer may be given to the taxpayer's authorized representative, and any such notice or other communication shall have the same effect as if given to the taxpayer directly. Action taken by the taxpayer's authorized representative shall have the same force and effect as if taken by the taxpayer.

The taxpayer has the burden of proof on all issues.

Hearings

If a taxpayer does not request a hearing on a petition, the taxpayer will be deemed to have waived any right to a hearing and to have requested that the Borough Solicitor decide the taxpayer's case based solely on the petition. If the taxpayer does not request a hearing, or if the Borough Solicitor decides that the taxpayer has no right to a hearing, then the Borough Solicitor, will decide in his or her discretion, whether a hearing is required.

Notice of Hearing. If the Borough Solicitor schedules a hearing on a taxpayer's petition, reasonable notice shall be given to the taxpayer, in writing, specifying the date, time and place of the hearing, which notice shall be not less than thirty (30) days from the date of mailing of the notice.

Continuances. The Borough Solicitor may grant a reasonable request for continuance of a scheduled hearing for cause shown. All requests for continuances shall be in writing and shall state the reasons for the requested continuance and shall be received by the Borough Solicitor at least 5 days prior to the scheduled hearing.

Presiding Officer. The Borough Solicitor shall preside at the hearing.

Transcripts or Recordings. Transcripts or recordings of a hearing are not required but may be made at the discretion of the Borough Solicitor or the taxpayer.

Authority of the Solicitor During Hearings. The Borough Solicitor shall have the authority to:

- (1) Regulate the conduct of hearings, including the scheduling, recessing, reconvening and adjournment of hearings, and all acts necessary and proper for the efficient conduct of hearings.
- (2) Delegate the scheduling hearings to any Borough employee.
- (3) Administer oaths and affirmations.
- (4) Receive evidence.
- (5) Require production of books, records, documents and other data pertinent to the issues.

Evidence. Hearings need not adhere to the technical rules of evidence. In cases involving issues of fact, oral testimony shall be under oath or affirmation. At the discretion of the Borough Solicitor, depositions or affidavits may be received in lieu of oral testimony if the actual presence of a witness is not feasible.

Decisions. After a hearing on a taxpayer's petition is concluded, the Borough Solicitor shall review the evidence presented and shall thereafter render a decision. All decisions by the Solicitor shall be rendered within sixty (60) days after a taxpayer's petition is filed, unless this time period is waived by the taxpayer. The decision of the Borough Solicitor shall be in writing and shall be signed by the Solicitor.

Appeals to the Court of Common Pleas From Decisions of the Borough Solicitor

To appeal any adverse decision of the Borough Solicitor, the taxpayer or any person who has a direct interest in the decision rendered by the Borough Solicitor, shall, within **thirty (30) days** of the decision of the Borough Solicitor, file an appeal in the Court of Common Pleas of Allegheny County vested with jurisdiction of local tax appeals pursuant to 42 Pa.C.S. (relating to judiciary and judicial procedure).

Taxpayer's Procedures for Refunds of Overpaid Tax

If a taxpayer determines that a tax has been paid to which he or she is not subject, a petition for refund of overpaid taxes must be filed with the Borough Solicitor. The Borough Solicitor will handle petitions for refunds in the same manner that he or she handles appeal petitions as set forth above. *All* refund petitions shall be filed with the Borough Solicitor within three (3) years after the due date for filing the tax return as extended or one (1) year after actual payment of an eligible tax, whichever is later. If no return is required, the petition shall be filed with the Borough Solicitor within three (3) years after the due date for payment of an eligible tax or within one (1) year after actual payment, whichever is later.

Taxpayers' Complaints

If a taxpayer has a complaint about an action of the 511 Tax Collector regarding earned income taxes or net profit taxes, the taxpayer should file a written description of the complaint with the Borough Solicitor, at the above address. The Solicitor will then facilitate the resolution of the complaint by working with the appropriate Northgate School District and Avalon Borough personnel or by using an assistance order if it is requested by the taxpayer and so warranted.

Enforcement Methods

If a taxpayer has not paid a tax liability determined to be due and the taxpayer has not filed a timely appeal of the liability, the School District and Avalon Borough may take the following actions:

- The Northgate School District and Avalon Borough may contact a delinquent taxpayer and attempt to resolve the liability through payment in full or by payment plan.
- The School District and Borough may audit the taxpayer's records.
- The Northgate School District and Avalon Borough may utilize its Solicitor or outside legal counsel to assist in the collection of delinquent taxes.
- The Northgate School District and Avalon Borough may file a civil suit against the taxpayer before a District Justice or in the Court of Common Pleas suit or against any other person responsible for filing the tax return and/or for payment of the tax or delinquent tax, employer withholding, etc., and obtain a judgment which may be the basis of a levy to seize the property of the taxpayer.
- If authorized by law, the Northgate School District and Avalon Borough may execute and attach taxpayer bank accounts, sell taxpayer vehicles, other personal property or real estate, based upon a judgment or lien obtained through legal proceedings.

- The Northgate School District and Avalon Borough may file a criminal complaint or action against a taxpayer, employer or business owner, etc., when a properly prepared tax return form has not been received by the Northgate School District and Avalon Borough or if the taxpayer, employer or business owner, etc., has not registered with the 511 Tax Collector for Northgate School District and the Borough of Avalon.
- The Northgate School District and Avalon Borough may also investigate, assess and advance through the Court of Common Pleas, actions against delinquent taxpayers, including but not limited to violations of criminal statutes as well as other actions authorized by the Local Tax Enabling Act.
- The Northgate School District and Avalon Borough may also prepare and issue wage attachments to employers of a taxpayer or the employer of a taxpayer's spouse when a taxpayer does not remit timely payment of all taxes due to the Northgate School District and Avalon Borough.
- The Northgate School District and Avalon Borough may file proofs of claim in Bankruptcy Courts against debtors and taxpayers.
- Any other legal remedies authorized by law.

Copies of the Ordinance, Resolutions and the Rules and Regulations are available to any taxpayer free of charge. Please contact the Northgate School District and Avalon Borough 511 Tax Collector at (412) 761-3452, Monday through Friday, 9:00 a.m. to 5:00 p.m. for your copy.