

**TOWN OF MCCANDLESS
Allegheny County, Pennsylvania**

**BUSINESS PRIVILEGE TAX
RULES and REGULATIONS**

And

**BUSINESS PRIVILEGE TAX
ORDINANCE**

Amended November 22, 2004

**TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX
RULES AND REGULATIONS**

INTRODUCTION

Persons desiring to do business in the Town of McCandless ("Town") are required to pay a tax on gross receipts. These Rules and Regulations provide a formal interpretation of the Town's Business Privilege Tax Ordinance (Article 341 of the Codified Ordinances) and establish procedures for its administration. Article 341 is attached and set forth as Addendum "A".

These Rules and Regulations are adopted pursuant to the authority set forth in Article 341, and shall be interpreted, whenever possible, to be consistent with Article 341. In the event that a provision of these Rules and Regulations shall be inconsistent with Article 341, the provisions of Article 341 shall prevail. Compliance with these Rules and Regulations shall be sufficient to bar imposition of penalty by the Town.

**THESE ARE REVISED RULES AND REGULATIONS. THEY ARE EFFECTIVE AS OF
12:01AM, JANUARY 1, 2005. ALL PREVIOUS VERSIONS OF THE BUSINESS PRIVILEGE
TAX RULES AND REGULATIONS ARE VOID.**

For information or additional copies, please contact:

Town of McCandless
ATTN: BPT
9955 Grubbs Road
Wexford, PA. 15090-9644
Telephone: 412-364-0616, ext.127
Fax: 412-364-5066
Web site: www.townofmccandless.org

Office hours: 9:00 a.m. to 5:00 p.m., Monday through Friday

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

TABLE OF CONTENTS

| ARTICLE I. BUSINESS PRIVILEGE LICENSE | Page |
|---------------------------------------------------------------------------------------------------------------------|-------------|
| SECTION 101: LICENSE REQUIRED | 5 |
| SECTION 102: FEE, TERM AND PRORATION | 5 |
| SECTION 103: POSTING OF LICENSE | 5 |
| SECTION 104: LICENSE FOR BRANCH ESTABLISHMENTS | 5 |
| SECTION 105: ASSIGNMENT AND TRANSFER PROHIBITED | 5 |
| SECTION 106: REPLACEMENT LICENSES | 6 |
| SECTION 107: CHANGE OF TAXPAYER'S ADDRESS | 6 |
| SECTION 108: FAILURE TO PROCURE LICENSE AND LICENSE REVOCATION | 6 |
| ARTICLE II. BUSINESS PRIVILEGE TAX | |
| SECTION 201: AUTHORITY | 6 |
| SECTION 202: DEFINITIONS | 6 |
| SECTION 203: WHO MUST FILE A RETURN | 9 |
| SECTION 204: NATURE AND IMPOSITION OF TAX | 9 |
| SECTION 205: BASE RATE OF TAX, COMPUTATION OF VOLUME OF BUSINESS, AND DETERMINATION OF THE GROSS VOLUME OF BUSINESS | 9 |
| SECTION 206: ATTRIBUTION OF GROSS RECEIPTS | 10 |
| SECTION 207: EXCLUSIONS FROM GROSS RECEIPTS | 12 |
| SECTION 208: INTERSTATE COMMERCE | 14 |
| SECTION 209: INCLUSION IN GROSS RECEIPTS | 14 |
| ARTICLE III. DECLARATION AND PAYMENT OF TAX | |
| SECTION 301: TAX RETURNS | 16 |
| SECTION 302: DUE DATES FOR FILING RETURNS | 16 |
| SECTION 303: EXTENSION OF TIME FOR FILING RETURNS | 16 |
| SECTION 304: FILING TO BE COMPLETE | 17 |
| SECTION 305: BUSINESS TERMINATION | 17 |
| ARTICLE IV. ACCOUNTING, BOOKS AND RECORDS | |
| SECTION 401: ACCOUNTING METHODS AND PERIODS | 18 |
| SECTION 402: RECORDS TO BE KEPT | 18 |
| ARTICLE V. ADMINISTRATION AND ENFORCEMENT | |
| SECTION 501: COLLECTION AND RECEIPT OF TAX | 18 |
| SECTION 502: RECORDS OF RECEIPTS | 18 |
| SECTION 503: DISCLOSURE STATEMENT OF TAXPAYER'S RIGHTS AND OBLIGATIONS | 18 |
| SECTION 504: VERIFICATION OF RECORDS, AUDITS, RESPONSE PERIODS AND PRIOR YEAR RETURNS | 19 |
| SECTION 505: PROCEDURES FOR THE CONDUCT OF TAXPAYER AUDIT | 19 |
| SECTION 506: EXAMINATION OF RETURN, NOTICE OF ASSESSMENT | 20 |
| SECTION 507: PETITION FOR REASSESSMENT | 20 |
| SECTION 508: REFUND OF OVERPAYMENTS AND INTEREST ON OVERPAYMENTS | 20 |

TOWN OF MCCANDELLS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

| | |
|--------------------------------------------------------|----|
| SECTION 509: ABATEMENT OF CERTAIN INTEREST AND PENALTY | 21 |
| SECTION 510: INSTALLMENT AGREEMENTS | 22 |
| SECTION 511: PAYMENT | 23 |
| SECTION 512: PAYMENT UNDER PROTEST | 23 |
| SECTION 513: VIOLATIONS AND PENALTIES | 23 |
| SECTION 514: CONFIDENTIAL NATURE OF RETURNS | 23 |
| SECTION 515: DISHONORED CHECKS | 24 |
| SECTION 516: ADMINISTRATIVE APPEALS | 24 |
| SECTION 517: JUDICIAL APPEAL | 24 |
| SECTION 518: LEGAL PROCEEDINGS AUTHORIZED | 24 |
| SECTION 519: ENFORCEMENT | 24 |

ADDENDUM A - Codified Ordinances, Article 341 "The Business Privilege Tax Ordinance"

ADDENDUM B - Town of McCandless Disclosure Statement of Town's and Taxpayer's Rights and Responsibilities

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

ARTICLE I BUSINESS PRIVILEGE LICENSE

SECTION 101: LICENSE REQUIRED

Any person desiring to commence, or continue to conduct any business, as defined in Article 341 of the Codified Ordinances of the Town, within the Town shall obtain a business privilege license.

SECTION 102: FEE, TERM, AND PRORATION

The Business Privilege Tax License fee shall be \$ 5.00 for the first tax year. The license shall be renewed automatically on January 1 of each year at no additional charge through the mailing of a license renewal certificate by the Town.

SECTION 103: POSTING OF LICENSE

Licenses shall be kept and posted as follows:

- (1) Fixed place of business. Licenses shall be posted in a conspicuous place upon the premises where business is conducted. Fair, festival, and/or craft vendors who do business from a stand, booth, and/or other fixed, temporary place of business shall post the license conspicuously upon that fixed, temporary place of business.
- (2) Operating from a cart or vehicle. License shall be posted in a conspicuous place upon the cart or vehicle from where business is being conducted.
- (3) Contractors domiciled outside the Town. Contractors domiciled outside the Town, who have obtained a Business Privilege Tax License to do business within the Town shall keep the license available for inspection at the site where business is being conducted.
- (4) Vending machine owners. A person or business who sells goods, wares or merchandise by means of vending machines shall procure one license covering all of the vending machines, and shall post it at the principal place of business. A person or business operating arcade and video games shall be considered to be a vending machine owner.
- (5) Others. Licensees engaged in business, but not operating from a fixed place of business or from a vehicle, shall keep the license with their books of account or other business records and have it available for verification if requested.

SECTION 104: LICENSE FOR BRANCH ESTABLISHMENTS

In the event that a licensee conducts business at more than one location in the Town, an additional license is required for each additional place of business (except vending machines). Additional licenses shall be posted in accordance with the provisions of Section 103 of these Regulations. There will be no fee for each additional license.

SECTION 105: ASSIGNMENT AND TRANSFER PROHIBITED

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

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

SECTION 106: REPLACEMENT LICENSES

In the event of loss, defacement or destruction of any license, the licensee shall apply for a replacement license. The fee for a replacement license is \$5.00. The fee is payable to the Town of McCandless.

SECTION 107: CHANGE OF TAXPAYER'S ADDRESS

Taxpayer's change of address must be reported in writing to the Town, within ten (10) days after such change becomes effective.

SECTION 108: FAILURE TO PROCURE LICENSE AND LICENSE REVOCATION

Persons that engage in a business without having first procured a Business Privilege Tax License are subject to penalty and fine. The Business Privilege Tax License may be withheld or revoked at any time by the Town if a taxpayer is in default in payment of tax due.

ARTICLE II BUSINESS PRIVILEGE TAX

SECTION 201: AUTHORITY

The Business Privilege Tax Ordinance was enacted under the authority of the Local Tax Enabling Act (Act 511 of 1965), 53 P.S. § 6901 *et seq.*, and appears in the Codified Ordinances of the Town of McCandless as Article 341 (attached as Addendum "A").

SECTION 202: DEFINITIONS

As used in these Rules and Regulations:

"Assessment" means the determination by a local taxing authority of the amount of underpayment by a taxpayer.

"Association" means a partnership, limited partnership, or any other unincorporated group of two or more persons or a limited liability company.

"Business" means any activity carried on or exercised for gain or profit in the Town, including but not limited to, the sale of merchandise or other tangible personal property, the performance of services and the rental of personality and/or realty. As to those taxpayers having a place of business within the Town, "business" includes all activities carried on within the Town and those carried on outside the Town attributable to the place of business within the Town.

"Contractor" means every person engaged in the business of furnishing labor, materials, or both labor and materials, in connection with all or any part of the construction, alteration, repairing, dismantling or

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, and every other type of structure as an improvement, alteration or development of real property.

"Corporation" means a corporation or joint stock association organized under the laws of the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency.

"Current Year" means the calendar year for which the tax is being levied.

"Date of Overpayment" means the later of the date paid or the date tax is deemed to be overpaid as follows:

- (1) Any amount overpaid as estimated tax for the tax period shall be deemed to have been overpaid on the last day for filing the final report for the tax period, determined without regard to any extension of time for filing.
- (2) An overpayment made before the last day prescribed for payment shall be deemed to have been paid on the last day.
- (3) Any amount claimed to be overpaid with respect to which lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid 60 days following the initiation of the review or procedure.

"Date of Resolution" means the date the overpayment is refunded or credited as follows:

- (1) For a cash refund, a date preceding the date of the Town's refund check by not more than 30 days.
- (2) For a credit for an overpayment:
 - (a) The date of the Town's notice to the taxpayer of the determination of the credit; or
 - (b) The due date for payment of the tax against which the credit is applied, whichever first occurs. For a cash refund of a previously determined credit, interest shall be paid on the amount of the credit from a date 90 days after the filing of a request to convert the credit to a cash refund to a date preceding the date of the refund check by not more than 30 days, whether or not the refund check is accepted by the taxpayer after tender.

"Gross Receipts" means cash, credits or property of any kind received in exchange for merchandise sold or services performed or other business activity conducted within or attributable to the Town, without deduction there from on account for costs of property or merchandise sold; materials, labor or services furnished or used; interest or discount paid; or any other business related expense, as permitted by regulation.

"Gross volume of business" means the money or money's worth received by any vendor in, or by reason of, the sale of goods, wares, merchandise, or services rendered.

"Independent Agent, Contractor, or Representative" means a person who, while performing services for another person, is not subject to the direction and control of the other as to the details, methods and means by which a result directed by the other is accomplished.

"Lease" means a transfer of the right to possession and/or use of real or personal property (including intangible personal property) for a term in return for consideration. A sale, including a sale on approval, or retention or creation of a security interest is not a lease. For purposes of these regulations any "rental" of property shall be treated as a lease.

**TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX
RULES AND REGULATIONS**

"License year" means the period January 1 to December 31, inclusive.

"Local taxing authority" means a political subdivision levying an eligible tax. The term shall include any officer, agent, agency, clerk, employee or other person to whom the governing body has assigned responsibility for the audit, assessment, determination or administration of an eligible tax. The term shall not include a tax collector or collection agency who has no authority to audit a taxpayer or determine the amount of eligible tax or whose only responsibility is to collect an eligible tax on behalf of the governing body.

"Merchandise" means produce, goods, commodities, food or foodstuffs, wares, items, products, crops, livestock, animals, metals, gems, or any other property of whatever description, whether new or used.

"Nonresident" means a Person domiciled outside the taxing district.

"Overpayment" means any payment of tax which is determined in the manner provided by law not to be due.

"Person" - Any individual, partnership, limited partnership, association, firm, or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

"Preceding Year" means the calendar year before the Current Year.

"Resident" means a Person domiciled in the taxing district.

"Sale" means the passing of ownership from a seller to a buyer for a price, or for a consideration.

"Service" means any act or instance of helping or benefiting another for consideration.

"Succeeding Year" means the calendar year following the Current Year.

"Tax" or "The Tax" means the Town of McCandless Business Privilege Tax.

"Tax Administrator" means the person authorized and empowered by Town Council to collect and administer the within tax, and shall include his/her or its deputies.

"Tax Appeals Hearing Officer" means an individual appointed by the Town Council to hear local tax appeals, established under Section 516 relative to Administrative Appeals.

"Taxing District" or "District" means the Town of McCandless, whose Ordinance has provided for levying and assessing a gross receipts tax.

"Taxpayer" means a person subject to the payment of the tax imposed by this article.

"Tax year" means the calendar year beginning January 1, and ending December 31, and each calendar year

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

hereafter.

“Town” means the Town of McCandless, Allegheny County, Pennsylvania.

“Underpayment” means the amount or portion of any tax determined to be legally due in the manner provided by law for which payment or remittance has not been made.

“Voluntary Payment” means the payment of an eligible tax made pursuant to the free will of the Taxpayer. The term does not include a payment as a result of distraint or levy or pursuant to a legal proceeding in which the local taxing authority is seeking to collect its delinquent taxes or file a claim therefor.

SECTION 203: WHO MUST FILE A RETURN

Every person who establishes a business location within the Town must file a Business Privilege tax return. A Business Privilege tax return must be filed whether or not tax is due. In the case of a partnership, for example, the tax is calculated on the gross receipts of the partnership rather than the individual income of the partners. Any or all of the individual partners may be held responsible for the filing of the tax return and payment of the tax. In the case of a corporation, for example, the tax is calculated on the gross receipts of the corporation. Corporate officers shall be held responsible for the filing of the tax return.

SECTION 204: NATURE AND IMPOSITION OF TAX

For purposes of these Rules and Regulations, the Business Privilege Tax is a tax on the privilege of having a business in the Town by establishing a temporary or permanent business address or situs within the limits of the Town. If a person has a business address within the Town and cannot provide proof that it has established situs and paid the Business Privilege Tax, if applicable, at a location outside the limits of the Town, then it is subject to the tax.

SECTION 205: BASE RATE OF TAX, COMPUTATION OF VOLUME OF BUSINESS, AND DETERMINATION OF THE GROSS VOLUME OF BUSINESS

A. Tax Base. The tax is based on gross receipts attributable to doing business in the Town. To determine whether gross receipts are attributable to doing business in the Town see Attribution of Gross Receipts, Section 206. Receipts from certain activities are excluded from taxation. See Exclusion from Gross Receipts, Section 207 and Interstate Commerce, Section 208.

B. Tax Rate. The rate of tax is .001 (\$1.00 per \$1,000.00) of gross volume of business.

C. Computation of Volume of Business.

1. For businesses that started in the current “tax year”, the tax shall be due on January 31 of the following year and shall be based on the actual “gross volume of business” transacted for the current “tax year.”
2. For a business that started operations in the calendar year preceding the current “tax year” the business shall pay its tax in the current “tax year” based on the gross receipts sales line of their federal tax return for the preceding year pro-rated to twelve months. The tax shall be paid in full on or before May 15 of the current “tax year”.
3. For a business that has been in operation one full calendar year or more prior to the current

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

“tax year”, the tax shall be computed based on the gross volume of business transacted in the preceding calendar year and shall be due in full on or before May 15 of the current “tax year.”

4. Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal, or itinerant by nature, shall compute his gross amount of business within the Town from his actual gross receipts for the license year.

D. Determination of the Gross or Whole Volume of Business: Gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made and/or services rendered, subject only to the following allowable deductions and exemptions:

1. The dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as a trade-in or as part payment for other goods, wares or merchandise, except to the extent that the resale price exceeds the trade-in allowance;
2. Refunds, credits or allowances given by a taxpayer to a purchaser on account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned;
3. Any commission paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such broker; and sales contract initiated, executed with such other broker; and
4. Bad debts, where the deduction is also taken in the same year for Federal income tax purposes.

E. Partial Exemptions: Where gross receipts or whole volume of business in its entirety cannot be subjected to the tax imposed by this article by reason of the provisions of the Constitution of the United States or Constitution of the Commonwealth of Pennsylvania, or any other provisions of the law, including, but not limited to, Court decisions from Pennsylvania Courts of competent jurisdiction, only that part of the gross or whole volume of business which is properly attributable and allowable to doing business in the Town shall be taxed hereunder.

F. Rate When Same Tax is Imposed by Two Taxing Bodies: If any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act, 1965, December 31. P.L. 1257 (53 P.S. 6901 et seq.), to the Town and one or more political subdivisions of the Commonwealth, then in that event, the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but, in no event shall the combined taxes of both subdivisions exceed a maximum rate of tax as fixed by such Enabling Act permitting the imposition of such taxes.

G. Records: The exempt or partially exempt taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep the books and records of his or her business so as to show clearly, accurately and separately the amount of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided.

SECTION 206: ATTRIBUTION OF GROSS RECEIPTS

General. Gross receipts which are fairly attributable to exercising the privilege of doing business within the Town are subject to tax.

A. Attribution of gross receipts from sales of merchandise.

1. **Receipts from Town sales transactions.** All receipts from Wholesale or Retail Sales made or affected within the territorial limits of the Town are to be included in taxable

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

receipts. For purposes of these Rules and Regulations, sales are “made or affected” when an agreement of sale is concluded within the Town and the business has established a location or situs within the Town, or, when an order is accepted or forwarded for confirmation or approval from a business’s established location or situs within the Town and, as a matter of business custom or practice, delivery is made and the transaction is consummated on the same terms and conditions as set forth in the order.

2. **Delivery outside of the Town.** Receipts from sales made or affected in the Town by a business with an established location or situs within the Town are taxable whether delivery after sale is made within or outside of the Town.
3. **Doing business through local representative or sales office.** Receipts from sales made or affected in the Town by a local representative or sales force with an established business location or situs within the Town are included in taxable receipts.

B. Attribution of Gross Receipts from the Sale of Services.

1. **Services performed entirely within the Town.** All receipts from services performed within the Town by a business with an established location or situs within the Town are attributable to the Town, notwithstanding that a contract for such services may have been entered into outside the Town, or that services are performed for customers who reside outside the Town, or that services are performed upon tangible items retrieved from and delivered to locations outside the Town.
2. **Receipts from services directed from the Town.** Except as provided in the following subparagraph 3 below, receipts from services performed outside of the Town but which are managed, directed or controlled from within the Town are attributed to the Town. Receipts from services performed outside the Town, earned by persons whose home office is within the Town, will be presumed to be managed, directed or controlled from within the Town.
3. **Receipts from activities directed from the Town, but subject to business privilege tax elsewhere.** Receipts from activities managed, directed or controlled from within the Town, which the Taxpayer can show are subject to a tax on gross receipts for the privilege of doing business imposed by another local taxing jurisdiction, shall be deemed to be fairly attributed to such other taxing jurisdiction and are excluded from receipts taxed by the Town.
4. **Branch Offices located outside of the Town.** Receipts from services managed, directed or controlled from a bona fide branch office located outside the Town are not attributed to the Town. The following criteria will be considered (as relevant but not conclusive) by the Town in determining the existence of a bona fide branch office:
 - (a) The appearance of the taxpayer's name in telephone and/or building directories.
 - (b) Stationary and calling cards showing the branch office address.
 - (c) Storage of inventory or display samples at branch office.
 - (d) The existence of a rental agreement (or lease) for space used at the branch office.
 - (e) Employment of personnel at the branch office.
 - (f) The existence of a business license to operate at the branch office.
 - (g) Field Office. A field trailer may operate as a bona fide branch office where the trailer bears the name of the taxpayer, the trailer is staffed by the taxpayer's employees who report directly to the field office site, the field office is maintained for not less than 60 days continuously, and a business license is maintained at the field office.
5. **Apportionment of receipts where attribution is impossible.** In instances involving the

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

performance of services both within and outside the Town where it is impossible or impracticable to attribute receipts to a specific source location, receipts may be apportioned using a ratio equal to the number of hours of service performed within the Town, divided by the total number of hours of service performed both within and outside the Town.

C. **Unfair Attribution.** If, in the discretion of the Town, the application of the provisions of this section results in an unfair or inequitable attribution (or apportionment) of receipts, then the Town may permit or require the use of other methods of attribution to produce a fair and equitable attribution of gross receipts. The opinion of the Town Attorney may be involved in this decision process.

SECTION 207: EXCLUSIONS FROM GROSS RECEIPTS

Exclusions from taxable gross receipts shall be allowed as follows:

A. **State Preemptions.** Gross receipts from activity which has been judicially determined to be preempted by the Commonwealth of Pennsylvania are excluded from gross receipts.

Limitation. Preemption does not relieve the taxpayer from all municipal taxation. Gross receipts which are unrelated to the aspect of business operations the taxation and regulation of which has been preempted by the Commonwealth remain subject to tax by the Town. Taxable activity will not lose its character as such merely through association with preempted activity.

B. **Duplicate State Tax.** In the event the Commonwealth of Pennsylvania imposes a tax on the same subject matter as is taxed under the Town Business Privilege Tax, and such State tax is measured by the same gross receipts sought to be taxed by the Town, the State tax shall prevail, and the same subject shall not be also taxed by the Town, except on sales of admission to places of amusement or on sales or other transfers of title or possession of property.

C. **Persons and businesses.** Persons employed for a wage or salary, nonprofit corporations or associations (see Section 207.G.) organized for religious, charitable or educational purposes, agencies of the government of the United States or of the Commonwealth of Pennsylvania and any political subdivision, or of any authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this article.

D. **Utilities.** No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission, or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.

E. **Reimbursement of expenses incurred as agent.** Dollar-for-dollar reimbursements of "out-of-pocket" expenses incurred by an agent for the benefit of its principal are exempt from taxable receipts.

F. **Manufacturers, producers, and processors of by-products of manufacturing.** No such tax shall be assessed and collected on goods, articles and products or on by-products of manufacture, or on minerals, timber, natural resources and farm products, manufactured, produced or grown in the Town, or on the preparation or processing thereof for use or market, or on any privilege, act or transaction relating to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading or dumping or storage of such goods, articles, products or by-products.

1. **Ordinary and general meaning.** Ordinary and general meaning shall be given to the

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

words "manufacturing", "producing" and "processing".

- (a) **Manufacturing**. Manufacturing means the making of something new and different, involving a substantial (not superficial) change in material, form, composition, or character, resulting in different goods and articles having a distinctive name, character and use.
- (b) **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.
- (c) **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 it is performed by the original manufacturer or by others.

2. **Application to goods and articles manufactured outside of the Town**. Receipts excludable under this subsection are excluded whether the product is manufactured, produced or processed within or outside the Town.
3. **Goods and articles for own use**. Receipts excludable under this subsection are excluded whether the product is sold to others or used by the taxpayer in its own operations.
4. **Non-manufacturing activities not subject to exclusions**. A manufacturer's receipts from activities other than manufacturing are not excluded.

G. Non-Profit Organizations. Gross receipts generated by non-profit organizations meeting the criteria for "institutions of purely public charity" as set forth in the Institutions of Purely Public Charity Act, 1997, P.L. 508, No.55; 10 P.S. §371 et seq., are not subject to the tax. However, gross receipts derived by non-profit organizations from unrelated trade or business, regularly carried, on are taxable.

1. **Unrelated trade or business**. An unrelated trade or business is one in which the conduct of business transactions is not substantially related to the exercise or performance of the exempt purposes of the organization (aside from the need for income or the use made of the profits).
2. **Regularly conducted**. Activities will be deemed to be regularly conducted if they manifest a frequency and continuity and are pursued in a manner similar to comparable commercial activities of taxable organizations.
3. **Sales to nonprofit organizations**. Receipts generated from the sales to religious, charitable, educational, governmental, or other entities not themselves subject to the tax, are not excluded from the tax.

H. Real Estate Brokers. A real estate broker, or agent, may exclude from his/her gross receipts any commissions paid by him/her to another broker or agent on account of a contract or purchase or sale initiated, executed, or cleared in conjunction with the broker, salesman, or agent to whom the commission or part of the commission is paid. If a person is in the business of taking title to real property and selling the property, he/she is required to include the gross selling price of the property in gross receipts. The same person may be taxed both as a broker and as a seller, depending on the nature of the transaction. If a real estate broker buys and sells real estate withheld in his/her own name or in the name of a straw party, he/she is taxed on the gross selling price of the real estate.

I. Miscellaneous excluded receipts. Excluded from the Business Privilege Tax are receipts which constitute:

1. Cash discounts to purchasers for prompt payment of bills.

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

2. Freight delivery or transportation charges paid by the seller for the purchaser.
3. Sales of trade-ins, up to the amount given the prior owner as a trade-in allowance.
4. Refunds, credits or allowances given customers for defective goods returned.
5. Taxes collected as agent for the United States of America, the Commonwealth of Pennsylvania, or the Town, or other member taxing authorities utilizing the services of the Town.
6. Exchanges between sellers of identical goods, but not to the extent of any additional cash payment accompanying the exchange.
7. Sales to other sellers in the same line, at the same price for which the seller acquired the merchandise.
8. Transfers between one department, branch or division of a business entity and another, recorded as interdepartmental transfers.
9. Receipts from providing direct-to-home satellite service.
10. Commissions paid by one broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker.
11. Receipts from sales made by a purchasing cooperative acting as the joint agent of its member principals for purchasing in bulk and distributing at cost products sold by its members.
12. Persons employed for wage or salary are exempt from the provisions of this tax.
13. No such tax or fee shall be assessed or collected on any receipts which are subject to a gross receipts tax or fee under any other ordinance of the Town.

J. **Minimum Tax Exemption.** No such tax is due if the tax amount owed for any tax year is equal to or less than five dollars (\$5.00). A tax return and documentation required by the Tax Administrator shall be filed by the date on which tax is due.

SECTION 208: INTERSTATE COMMERCE

General. Gross receipts which are fairly attributed to the Town (see Section 1206), earned by any person doing business within the Town and having substantial nexus to the Town, are included in taxable gross receipts.

A. **Substantial nexus with the Town.** Receipts earned by persons having no physical presence or other substantial nexus to the Town are not subject to the tax.

B. **Exclusion of gross receipts subject to tax outside of the Commonwealth.** Gross receipts from activities which are demonstrated by the taxpayer to be subject to a tax on gross receipts for the privilege of doing business imposed by another taxing jurisdiction outside the Commonwealth shall be deemed to be fairly attributed to other such taxing jurisdiction and excluded from receipts taxable by the Town.

SECTION 209: INCLUSIONS IN GROSS RECEIPTS

A. **Affiliated Companies.** Receipts from sales to affiliated business entities are included in taxable Gross Receipts.

B. **Conditional and Installment Sales.**

**TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX
RULES AND REGULATIONS**

1. A person making conditional sales or other installment sales of property is required to report the total selling price of such sales as gross receipts for the tax year in which the contracts of sale are entered into.
2. Where tangible personal property sold under a conditional or other installment sales contract is repossessed by the seller, and the repossessed property is subsequently sold, the receipts from such sales are to be included in the measure of the tax only to the extent that the amount of sale exceeds the balance due on the original sale at the time of repossession. No deduction from Gross Receipts may be taken for any unpaid balance due at the time of the repossession.

C. Consignment Transactions. Gross Receipts received by a consignor from consignment transactions are subject to the tax.

1. **Leased Departments.** Gross receipts received from the lease of a department are includable.
2. **Persons Erecting Buildings or Altering, Repairing or Improving Property.** Persons in the business of erecting buildings, or altering, repairing or improving real property, under contract (i.e., contractors and subcontractors), shall include in their Gross Receipts all sums paid to them under such contract, without deduction for sums paid to suppliers and/or subcontractors.

D. General Agencies, Brokers, and Agents.

1. **General Agencies and Brokerage Firms.** All general agencies and brokerage firms shall include in Gross Receipts all revenues received less deduction for commissions or fees paid to, or withheld by, agents of the general agency or brokerage firm.
2. **Agent's commissions.** Independent agents shall include in Gross Receipts all fees, commissions, or other remuneration received for services performed as an agent.
3. **Agent as employees.** 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 W2 and/or such other documentation as the Town may reasonably require to show employment. Receipts earned by independent agents are subject to the tax even though such persons may qualify as "statutory employees" for purposes of federal income taxation.

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

ARTICLE III DECLARATION AND PAYMENT OF TAX

SECTION 301: TAX RETURNS

A. Tax returns shall be made using forms approved by the Town, and the Town may inquire as to business name, type of activity, business receipts, and any other information reasonably necessary to accurately determine taxpayer identity and liability. Tax returns must be filed whether or not tax is due. The failure to receive a tax return, or form, by mail from the Town does not relieve the taxpayer of the responsibility to timely file a tax return. Every person making a return shall certify the correctness thereof by affidavit. The fact that an individual's name is signed on the return shall be *prima-facie* evidence that such individual is authorized to sign the return on behalf of the taxpayer.

B. Every person subject to the tax imposed by this article shall file a return with the Town, by May 15th of every calendar year, setting forth his/her business name, type of business and business address, and such other information as may be required by the Town in order to determine actual gross receipts and the amount of tax due.

C. Any person required to file a return by this article shall attach to such return the Internal Revenue Service Schedule "C" "E", "F", "K-1", Form 990, Form 1040, Form 1065, Form 1120, or Form 1120S for the appropriate period. For a business that files its federal tax return on a calendar year basis, the appropriate federal schedules would be for the prior calendar year. For a business that files on a fiscal year basis, the appropriate federal schedules would be for the fiscal year that ended in the prior calendar year.

SECTION 302: DUE DATES FOR FILING RETURNS

A. Annual Returns. Annual returns are due on May fifteenth of the Succeeding Year.

B. Returns of Temporary, Seasonal or Itinerant Business. Every person or business engaged in business activity who does not intend to continue such activity within the Town for a full year or which business activity by its very nature is not permanent, and who engages in this business activity for a period of greater than five (5) days in any tax year shall make and file with the Town a tax return, as set forth in Section 401, and pay the tax due thereon within thirty (30) days of the close of the temporary, seasonal or itinerant business activity. For purposes of these regulations vendors at fairs, festivals, and craft shows/fairs shall be considered to be temporary, seasonal or itinerant businesses. Each such business is required to file with the Town a return setting forth his/her name, type of business and business address, and such other information as may be required by the Town in order to determine actual gross receipts and the amount of tax due for the period he/she engages in business during the year.

C. Proof of Mailing. The postmark of the United States Postal Service shall constitute proof of mailing. The postmarked date will constitute the filing date of the tax return.

SECTION 303: EXTENSION OF TIME FOR FILING RETURNS

A. The Tax Administrator, upon proper cause shown, may grant an extension of not more than sixty (60) days for the filing of any tax return. Applications for extensions shall be made on or before the last day for payment of the tax (May fifteenth) in such form as the Tax Administrator prescribes.

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

B. If the Taxpayer files a request for extension of time to file returns with the Internal Revenue Service and is granted such extension by the Internal Revenue Service, the extension will not be honored by the Town unless a copy of the Taxpayer's request is filed with the Town on or before the last day for payment of the tax (May fifteenth).

C. In order for an extension to be granted the Taxpayer must file an Extension Request Form and pay 100% of the tax estimated to be due on or before the due date. The granting of any extension will not relieve the Taxpayer from the obligation to pay interest and penalty upon any tax that remains outstanding after the due date (May fifteenth). Extensions are granted for filing of the tax return only. There are no extensions for payment of the tax.

SECTION 304: FILING TO BE COMPLETE

Returns shall be completed in full and certified as true and correct by the taxpayer, supported by all additional forms or schedules required (including Federal Income Tax Schedule C if Taxpayer is a sole proprietor; Federal Form 1065 if Taxpayer is a partnership; Federal Form 1120/1120S if Taxpayer is a corporation; Federal Form 990 if Taxpayer is a non-profit organization). In cases where the taxable Gross Receipts, as calculated by the taxpayer, differ from Gross Receipts reported on the Federal Tax Form a reconciliation that fully explains the difference must accompany the tax return.

Completed tax returns must be accompanied by payment of tax and delivered to the Town on or before May fifteenth of the succeeding year.

SECTION 305: BUSINESS TERMINATION

Any taxpayer going out of business or ceasing to do business shall, within seven (7) days from the date of ceasing to do business, file a return showing the actual gross volume of business generated during the year in which said taxpayer ceased doing business and pay the tax due thereon at the time of filing the tax return.

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

ARTICLE IV ACCOUNTING, BOOKS, AND RECORDS

SECTION 401: ACCOUNTING METHODS AND PERIODS

The tax return may be filed on a cash basis or on an accrual basis, but the return must be prepared in accordance with the method of accounting regularly employed in keeping the books of the taxpayer.

SECTION 402: RECORDS TO BE KEPT

Every taxpayer is required to keep such accounts and records as will enable the filing of true and accurate declarations and returns. Such accounts and records shall be sufficiently complete to enable the Town or its designees to verify the accuracy of declarations and/or returns filed. Accounts and records are to be preserved for a period of not less than six (6) years in order to enable the Tax Collector to verify the correctness of the returns filed.

ARTICLE V ADMINISTRATION AND ENFORCEMENT

SECTION 501: COLLECTION AND RECEIPT OF TAX

The Tax Administrator is authorized to collect and receive taxes, penalties, and interest on behalf of the Town. Unless otherwise specified by the taxpayer, all voluntary payments shall be applied against amounts owed as follows: tax, penalty, and interest or charges.

SECTION 502: RECORDS OF RECEIPTS

The Tax Administrator is authorized and required to keep a record showing the amount received by the Town from each taxpayer and the date of such collection and receipt.

SECTION 503: DISCLOSURE STATEMENT OF TAXPAYER'S RIGHTS AND OBLIGATIONS

The Tax Administrator shall notify any taxpayer contacted of his/her rights regarding an assessment, audit, determination, review, refund, appeal or collection of tax as follows:

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 contacting the Town weekdays between the hours of 9:00 AM and 5:00 PM.

The Disclosure Statement, attached hereto as Addendum "B", is available to taxpayers upon request at no charge by calling 412-364-0616 between the hours of 9:00am and 5:00pm, weekdays, by writing to Town of McCandless, ATTN: TAX ADMINISTRATOR, 9955 Grubbs Road, Wexford, PA 15090-9644, or by visiting the Town's website at www.townofmccandless.org.

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

SECTION 504: VERIFICATION OF RECORDS, AUDITS, RESPONSE PERIODS AND PRIOR YEAR RETURNS

The Tax Administrator, or agents of the Tax Administrator designated in writing, are authorized to examine the books, papers, and records of any person or business entity whom the Tax Administrator reasonably believes has engaged in taxable business activity within the Town in order to verify the accuracy of any return made or, if no return has been filed, to arrive at a reasonable assessment of tax, interest, penalty, and fine due.

A. Cost of audits. In the event the Town retains the services of tax auditing professionals to verify the accuracy of returns filed or, if no return has been filed, to arrive at a reasonable assessment of tax, interest, penalty, and fine due, any cost to the Town to conduct such an audit shall be assessed against the taxpayer if any amount is found to be due and owing to the Town.

B. Issuance of subpoenas to compel attendance and production of records. The Tax Administrator, through the assistance of the Town Attorney, shall have the power and is authorized to (1) issue subpoenas to compel the attendance of persons deemed by the Town to be necessary to examine as witnesses, and (2) compel the production of books, records, and papers relating to any person or business entity under examination.

C. Minimum time periods for taxpayer response. Taxpayers shall have at least thirty (30) calendar days from the mailing date to respond to requests for information by the Town. The Tax Administrator may notify any taxpayer from whom the 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 upon application for good cause. No action shall be taken against a taxpayer for the tax year in question until the expiration of the response period, including extensions.

D. Inquiry as to prior year returns. Except as provided below, an initial inquiry regarding a taxpayer's compliance with the tax may include taxes required to be paid or tax returns required to be filed no more than three (3) years prior to the mailing date of the notice of such inquiry. If, after the initial request, the Tax Administrator (or designee) determines that the taxpayer failed to file a tax return, underreported income or failed to pay a tax for one or more of the tax periods covered by the initial request, subsequent requests for tax returns or supporting information may be made. This subsection shall not apply if the Tax Administrator has sufficient evidence to support its belief that the taxpayer has 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 initial notice.

SECTION 505: PROCEDURES FOR THE CONDUCT OF TAXPAYER AUDIT

The following procedures shall be followed during the conduct of an audit or examination 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 reason for the audit;
2. The tax years subject to audit;
3. The date, place and time for the audit to be conducted;
4. A description of the information, books and records to be produced;

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

5. A copy of the Town's Disclosure Statement information.

B. **Rescheduling audit.** The taxpayer may request that the audit be rescheduled, provided that it is rescheduled within a reasonable time not to exceed sixty (60) days, and that the request is accepted by the Tax Administrator.

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

D. **Audit results.** In the event a Notice of Tax Liability (Section 506.A.1) 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 506: EXAMINATION OF RETURN, NOTICE OF TAX LIABILITY

A. **Examination of Return.** The Tax Administrator shall examine every return as soon after filing as is practical to determine the correct amount of tax.

1. **Notice of Tax Liability for underpayment.** If the Tax Administrator finds that the amount of tax shown on a 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 Tax Liability shall be in writing and shall include:

- (a) The tax period or periods for which the underpayment is asserted.
- (b) The amount of the underpayment detailed by tax period.
- (c) The legal basis upon which the Tax Administrator has relied to determine that an underpayment exists.
- (d) An itemization of the revisions made by the Tax Administrator to a return or report filed by the taxpayer that results in the determination that an underpayment exists.

2. **Notice of Overpayment.** If the Tax Administrator finds that the tax that has been paid by the taxpayer is more than the correct amount, the Tax Administrator shall credit the overpayment against any taxes owed by the taxpayer to the Town and shall refund the difference to the taxpayer. Written notice of such action by the Tax Administrator may be provided to the taxpayer.

B. **No Return Filed.** If the taxpayer fails to file any return of tax required to be filed, the Tax Administrator may estimate from any available information the taxpayer's gross receipts and the tax thereon and notify the taxpayer in writing of the amount assessed against the taxpayer as a deficiency.

SECTION 507: PETITION FOR RECONSIDERATION OF TAX LIABILITY

Within thirty (30) days of the date of the Notice of Tax Liability, the taxpayer may file a Petition for the Reconsideration of Tax Liability setting forth the grounds upon which the petition for reconsideration is requested. Petitions for Reconsideration of the Tax Liability shall be filed with the Tax Administrator for hearing and determination.

SECTION 508: REFUND OF OVERPAYMENTS AND INTEREST ON OVERPAYMENTS

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

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

request shall be made within three (3) years after the due date for payment of the tax or within one year after actual payment of the tax, whichever is later.

1. **Overpayment on tax return.** For purposes of this section, a tax return filed by the taxpayer with the Tax Administrator showing an overpayment of tax shall be deemed to be a written request for a cash refund unless otherwise indicated on the tax return.
2. **Refund request not a petition for appeal.** A request for refund under this section shall not be considered a petition for appeal to the Tax Administrator and shall not preclude the taxpayer from submitting a petition for appeal (see Section 416).
3. **Refund after Notice of Tax Liability.** 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 Tax Administrator within one year of the date of payment.

B. Interest on overpayments. All overpayments of tax due to the Town shall bear simple interest from the date of overpayment until the date of resolution.

1. **Rate of interest.** Interest on overpayments shall be allowed and paid at the same rate as the Commonwealth is required to pay pursuant to Section 806.1 of the Act of April 9, 1929 (P.L. 343, No. 176), known as the Fiscal Code.
2. **75 Days before interest accrues.** No interest shall be allowed if an overpayment is refunded (or applied against any other tax, interest, or penalty due the Town) within seventy-five (75) days after the last prescribed date for filing the tax return or report of liability or within 75 days after the date the tax return or report of liability due is filed, whichever is later.
3. **No interest on Overpayments of Interest and Penalty.** Overpayments of interest and penalty shall not bear interest.

C. Acceptance of refund check. The taxpayer's acceptance of the Town'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 Town shall be deemed to be acceptance of the check by the taxpayer.

SECTION 509: ABATEMENT OF CERTAIN INTEREST AND PENALTY

A. Errors and Delays. In the case of any underpayment, the Tax Administrator may abate all or any part of interest and penalty for any period for the following:

1. Any underpayment of tax finally determined to be attributable in whole or in part to any error or delay by the Town 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 Town has contacted the taxpayer in writing with respect to the underpayment of tax finally determined to be due or payable.
2. Any payment of tax to the extent that any error or delay in the payment is attributable to an officer, employee or agent of the Town being erroneous or dilatory in the performance of a ministerial act. The Tax Administrator shall determine what constitutes timely performance of ministerial acts.

B. Erroneous written advice by the Town. The Town shall abate any portion of any penalty or interest attributable to erroneous advice furnished to the taxpayer in writing by an officer, employee or agent of the Town, acting in their official capacity if:

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

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

2. The portion of the additional tax, penalty and interest did not result from the failure of the taxpayer to provide adequate or accurate information.

SECTION 510: INSTALLMENT AGREEMENTS

The Town may enter into written "payment agreement contracts" with any taxpayer under which the taxpayer is allowed to satisfy liability for any eligible tax in installment payments if the Town determines that the agreement will facilitate collection. The following terms and conditions shall apply to installment plans:

- A. The taxpayer must file an annual tax return for the current tax year and any delinquent tax years to be covered under the installment plan. These annual tax returns must include a copy of the taxpayer's Federal Tax Return and all supporting documentation as verification that all taxable income has been reported. In cases where a Federal Tax Return cannot be produced, the taxpayer must complete a Federal Form 4506 "Request for Copies of Tax Return" naming the Town as recipient of the requested copy. The costs to procure the Federal Tax Return and related information shall be the sole responsibility of the taxpayer.
- B. Installment plans will not be approved for tax amounts less than \$100.00.
- C. Installment Plans will not be approved for more than two (2) years. Payment amounts will be calculated by dividing the total tax liability by twenty-four (24) and adding the applicable penalty, interest, fines, and costs to each payment.
- D. Taxpayers will be required to verify that their current year's tax liability has been satisfied to date either by proof of employer withholding or by direct payment from the taxpayer.
- E. Installment Plans will be granted only one time to any taxpayer.
- F. Installment Plans will be revoked and immediate civil action or garnishment of wages for collection of the tax due will be initiated if any of the aforementioned terms and conditions are not met.
- G. The Town may terminate any prior agreement if:
 1. The information the taxpayer provided to the Town prior to the date of the agreement was inaccurate or incomplete, or
 2. If the Town believes that collection of any eligible tax under the Installment Plan is in jeopardy.
- H. If the Town finds that the financial condition of the taxpayer has significantly changed, the Town may alter, modify or terminate the agreement, but only if:
 1. Notice of the Town's finding is provided to the taxpayer no later than 30 days prior to the date of such action; and
 2. The notice contains the reasons why the Town believes a change has occurred.
- I. The Town may alter, modify or terminate an Installment Plan agreement if the taxpayer fails to do any of the following:
 1. Pay any installment at the time the installment is due.
 2. Pay any other tax liability at the time the liability is due.
 3. Provide a financial condition update as requested by the Town.
- J. Nothing in this subsection shall prevent a taxpayer from pre-paying in whole or in part any eligible tax under any installment agreement with the Town.

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

SECTION 511: PAYMENT

A. The business privilege tax levied pursuant to this article shall be due and payable without further notice or demand on the date which the taxpayer is required to file a declaration of estimated tax.

B. All taxes, interest and penalties imposed under the provisions of this article shall be payable to the Town who, upon payment of the tax imposed, together with any interest and penalties due thereon, shall give to the person paying the same a receipt therefor. All tax shall always be deemed due and payable not later than at the time of filing the return.

SECTION 512: PAYMENT UNDER PROTEST

The Tax Administrator is authorized to accept "payment under protest" of the amount of tax in order to avoid liability for additional penalty, interest and fines. Notice of Payments made under protest will be forwarded to the Town Attorney for information purposes. The payment will be deposited by the Town. If it is thereafter judicially determined that the Town has been overpaid, the amount of the overpayment shall be refunded to the taxpayer.

SECTION 513: VIOLATIONS AND PENALTIES

Failure to comply with the provisions of the Town Codified Ordinance, Article 341 (Business Privilege Tax Ordinance) may result in both civil and criminal sanctions, including:

A. Administrative Penalty and Interest. If a person fails to pay the tax when due, a penalty of ten percent (10 %) of the tax due and unpaid shall be added thereto plus additional interest of one percent (1%) per month for each month the tax, or part of the tax, remains unpaid. This 10% administrative penalty shall be in addition to any other penalty imposed by this article.

B. Issuance of Non-Traffic Citation. The Tax Administrator is hereby authorized to file a Non-Traffic Citation against any taxpayer who violates any provision of Article 341 of the Codified Ordinances of the Town. Each twenty-four (24) hour period during which such violation continues shall be considered a separate and distinct offense punishable as outlined in the Business Privilege Tax Ordinance. Such violations include, but are not limited to:

1. Failure to make and file a required report or return.
2. Failure to provide supporting documentation.
3. Failure to remit any tax due.
4. Knowingly making false or fraudulent report or return.

SECTION 514: CONFIDENTIAL NATURE OF TAX INFORMATION

Any information gained by the Town as a result of any declaration, audit, return, report, investigation, hearing or verification shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for the Town to:

- (1) Divulge or make known in any manner confidential information gained in any return investigation, hearing or verification to any person.
- (2) Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person.
- (3) Print, publish or make known in any manner any confidential tax information.

TOWN OF MCCANDLESS BUSINESS PRIVILEGE TAX RULES AND REGULATIONS

SECTION 515: DISHONORED CHECKS

A \$20.00 charge will be levied by the Town each time a check is returned from the bank unpaid. Checks issued in violation of the Pennsylvania Crimes Code will be referred to appropriate authorities for possible criminal prosecution.

SECTION 516: ADMINISTRATIVE APPEALS

A. The Town encourages any taxpayer or employer desiring a specific ruling concerning the applicable Ordinances, Resolutions or these Rules and Regulations to submit all pertinent facts in writing to the Tax Administrator, who shall issue a written ruling or seek a legal opinion from the Town Attorney.

B. The Town has established an administrative process to receive and make determinations on petitions from taxpayers relating to the assessment, determination and refund of eligible taxes as required by ACT 50 of 1998. The Tax Appeals Hearing Officer shall rule on all petitions submitted based on the regulations set forth governing the applicable practice and procedures of the Administrative Appeal Process.

C. Any person aggrieved of any decision issued by the Tax Administrator shall then have the right to appeal to the Town's independent Tax Appeals Hearing Officer by following the procedures detailed in Town of McCandless Disclosure Statement of Town's and Taxpayer's Rights and Responsibilities, attached as Addendum "B".

SECTION 517: JUDICIAL APPEAL

Any person aggrieved by a decision of the Tax Appeals Hearing Officer, who has a direct interest in the decision shall have the right to appeal to the court vested with the jurisdiction of local tax appeals by or pursuant to 42 Pa.C.S. § 5571(b).

SECTION 518: LEGAL PROCEEDINGS AUTHORIZED

The Tax Administrator or the duly appointed staff of the Tax Office shall have the power in the name of the Town to institute proceedings against any and all persons who violate the provisions of this article or to take any other action provided by law.

SECTION 519: ENFORCEMENT

It shall be the duty of the Tax Administrator or any duly appointed designee to ensure the proper enforcement of the provisions of these Rules and Regulations, and any such officer shall have the power, in the name of the Town, to institute proceedings against any or all persons for the collection of any taxes and for violation of any of the provisions of these Rules and Regulations. If such suits are by process of summary conviction, in addition to the requirements for normal service and notice and in accordance with the police powers authorized by Rule 51 of the Pennsylvania Rules of Criminal Procedure, the Tax Administrator or any duly appointed designee acting within the scope of his employment may issue an immediate citation for violation of those sections for which summary criminal proceedings are authorized.

END.

ARTICLE 341
Business Privilege Tax

| | | | |
|--------|------------------------------------------------------------------------------------------------------------------|--------|-------------------------------------|
| 341.01 | Enacting authority. | 341.06 | Posting license. |
| 341.02 | Definitions. | 341.07 | Tax Administrator duties. |
| 341.03 | Imposition of tax; rate; business volume computed; exemptions; liability to two or more municipalities; records. | 341.08 | Confidential nature of information. |
| 341.04 | Returns; payment; late penalty. | 341.09 | Suit on collection and penalty. |
| 341.05 | License fee. | 341.10 | Severability. |
| | | 341.11 | Effective date. |
| | | 341.99 | Penalty. |

CROSS REFERENCES
Power to act - see Act 511 of 12-31-65 (53 P.S. Sec. 6901-6924)

341.01 ENACTING AUTHORITY.

(a) This article shall be known as the Business Privilege Tax Ordinance and is enacted pursuant to the authority of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, as amended. (Ord. 830 Sec. 1; Passed 12-21-81.)

341.02 DEFINITIONS.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "Business" means any activity carried on or exercised for gain or profit in the Town, including, but not limited to, the sale of merchandise or other tangible personality and/or realty, the performance of services and the rental of personality and/or realty.
- (b) "Calendar year" means the period January 1 to December 31, inclusive.
- (c) "License year" means the period from January 1 to December 31, inclusive.
- (d) "Person" means any individual, partnership, limited partnership, association, firm or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (e) "Taxpayer" means a person subject to the payment of the tax imposed by this article.
- (f) "Tax Administrator" means the person duly appointed by Council to collect and administer the within tax and shall include his or its deputies.
- (g) "Tax year" means the period from January 1 to December 31, inclusive, except that the tax year 1982 shall be the period February 1 to December 31, 1982.
- (h) "Town" means the Town of McCandless, Allegheny County, Pennsylvania.
(Ord. 830 Sec. 2. Passed 12-21-81.)

341.03 IMPOSITION OF TAX; RATE; BUSINESS VOLUME COMPUTED; EXEMPTIONS; LIABILITY TO TWO OR MORE MUNICIPALITIES; RECORDS.

There is hereby levied for the tax year 1982 and annually thereafter a tax for general revenue purposes on the privilege of doing business as herein defined in the Town as follows:

- (a) Rate and Basis of Tax. The rate of the tax on each and every dollar of the whole or gross volume of business transacted within the territorial limits of the Town shall be one mill. One mill shall mean one dollar (\$1.00) per one thousand dollars (\$1,000) of gross volume of business.
- (b) Computation of Volume of Business.
 - (1) Every person subject to the payment of the tax hereby imposed who has commenced his business prior to the full calendar year prior to the tax year shall compute his annual estimated whole or gross volume of business upon the actual amount of the whole or gross receipts of the business received by or credited to him during such immediately preceding calendar year. For the tax year 1982 only, such computation shall be based upon the actual whole or gross amount of business transacted from February 1 through December 31 of the immediately preceding calendar year.
 - (2) Every person subject to the payment of the tax hereby imposed who has commenced or commences his business before the beginning of the tax year but after the beginning of the full calendar year prior to the tax year, shall compute his estimated annual whole or gross volume of business for the tax year upon the whole or gross volume of business transacted by him during the prior calendar year, taking the monthly average during such period and multiplying the same by twelve. In the event that he shall be in business fewer than ninety days in the prior calendar year, he shall be permitted to use sufficient days in the calendar year in which the tax year begins to equal ninety successive days after commencement of business, to take a monthly average thereon, and to multiply the average by twelve. For the tax year 1982 only, such computation shall be based upon the monthly average multiplied by eleven.
 - (3) Every person subject to the payment of the tax hereby imposed who has commenced or commences his business subsequent to the beginning of the tax year shall compute his annual whole or gross volume of business upon the actual whole or gross amount of receipts received by or credited to him during the tax year.
 - (4) Every person subject to the payment of the tax hereby imposed who engages in business temporary, seasonal or itinerant by nature, shall compute his estimated whole or gross amount of business to be transacted by him for the period such person engages in such temporary, seasonal or itinerant business within the Town by a method to be determined by the Tax Administrator.
 - (5) Every person who ceases to carry on a business during any tax year after having paid the business privilege tax for the entire year shall, upon making proper application to the Tax Administrator, be entitled to receive a refund of the pro-rata amount of the tax based upon the period of time he was not in business during the tax year. In the event that a person who discontinues business during any tax year

does so before payment of his tax becomes due for such tax year, he shall be permitted to apportion his tax for such tax year and shall pay an amount to be computed by multiplying his gross receipts for the preceding full calendar year by a fraction whose numerator shall be the number of months such person was in business during the tax year and whose denominator shall be twelve.

(6) The Tax Administrator is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Town in any case where the taxpayer disputes the validity or amount of the Town's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that the Town has been overpaid, the amount of the overpayment shall be refunded to the taxpayer.

(c) Persons, Businesses and Receipts Exempted.

(1) Persons and businesses. Persons employed for a wage or salary, nonprofit corporations or associations organized for religious, charitable or educational purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania and the business of any political subdivision, or of any authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this article.

(2) No such tax shall be assessed and collected on a privilege, transaction, subject or occupation which is subject to a State tax or license fee, and which tax or license fee has been held by the Courts of Pennsylvania to be the basis for exemption from the imposition of a business privilege tax by a municipality.

(3) Utilities. No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission; or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.

(4) State tax on tangible property. No such tax shall be assessed and collected on the privilege of employing such tangible property as is subject to a State tax except on sales of admission to places of amusement or on sales or other transfer of title or possession of property.

(5) Production and manufacture. No such tax shall be assessed and collected on goods, articles and products or on by-products of manufacture, or on minerals, timber, natural resources and farm products, manufactured, produced or grown in the Town, or on the preparation of processing thereof for use of market, or on any privilege, act or transaction relating to the business of manufacturing, the production, preparation or processing of minerals, timber, and natural resources or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading, unloading or dumping or storage of such goods, articles, products or by-products. (Ord. 830 §3. Passed 12-21-81.)

(6) Minimum tax exemption. No such tax is due if the tax amount owed for any license year is equal to or less than five dollars (\$5.00). A tax return and documentation required by the Tax Administrator shall be filed by the date on which tax is due. (Ord. 1031. Passed 5-29-90.)

(d) Determination of Gross or Whole Volume Business. Gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made, rentals and/or services rendered, subject only to the following allowable deductions and exemptions:

- (1) The dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.
- (2) Refunds, credits or allowances given by a taxpayer to a purchaser on account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned.
- (3) Any commissions paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker.
- (4) Bad debts, where the deduction is also taken in the same year for Federal Income Taxation purposes.
- (5) Taxes collected as agent for the United States of America, Commonwealth of Pennsylvania, County of Allegheny or the Town of McCandless.

(e) Partial Exemptions. Where gross or whole volume of business in its entirety cannot be subjected to the tax imposed by this article by reason of the provisions of the Constitution of the United States or any other provision of law, the Tax Administrator, with the approval of Council, shall establish rules and regulations and methods of allocation and evaluation so that only that part of the gross or whole volume of business which is properly attributable and allowable to doing business in the Town shall be taxed hereunder.

(f) Rate When Same Tax is Imposed by Two Taxing Bodies. If any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act 1965, December 31, Pamphlet Law 1257, and its amendments, to the Town and one or more political subdivisions, of the State, then and in that event the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but, in no event, shall the combined taxes of both subdivisions exceed a maximum rate of tax as fixed by the Enabling Act permitting the imposition of such taxes.

(g) Records. The taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep books and records of his business so as to show clearly, accurately and separately the amount of such sales and services as are excluded from the tax and the amounts of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided. (Ord. 830 Sec. 3. Passed 12-21-81.)

341.04 RETURNS; PAYMENT; LATE PENALTY.

(a) Every return shall be made upon a form furnished by the Tax Administrator. Every person making a return shall certify the correctness thereof by affidavit.

(b) Every person subject to the tax imposed by this article who commenced his business on or before January 1 of the full calendar year previous to the beginning of any tax year shall on or before May 15 of the tax year file with the Tax Administrator a return setting forth his name, business, business address and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, and the amount of the tax due.

(c) Every person subject to the tax imposed by this article who has commenced his business before the beginning of the tax year but after January 1 of the full calendar year previous to the beginning of the tax year shall on or before May 15 of the tax year file with the Tax Administrator a return setting forth his name, business, business address and such other information as may be necessary in arriving at the estimated gross amount of business transacted by him as calculated under Section 341.03(b)(2) and the amount of tax due.

(d) Every person subject to the tax imposed by this article who has commenced or commences business subsequent to the beginning of any tax year shall, on or before January 31 of the year immediately following the tax year, file a return together with payment of the tax due, with the Tax Administrator, containing the actual gross amount of business transacted by him calculated under Section 341.03(b)(3).

(e) Every person subject to the payment of the tax imposed by this article who engages in a business temporary, seasonal or itinerant shall on or before January 31 of the year immediately following the tax year file a return together with payment of the tax due, with the Tax Administrator, containing the actual whole or gross amount of business transacted by him as calculated under Section 341.03(b)(4).

(f) Any person going out of or ceasing to do business shall, within seven days from the date of ceasing to do business, file a return showing the actual gross volume of business conducted and done by such person during that tax year in which such person ceased doing business, and pay the tax due as computed thereon at the rate herein provided for at the time of filing such return. If such tax has been previously paid based upon estimated gross receipts, the taxpayer shall be entitled to a refund, without interest, of any excess tax paid for the tax year in which business was terminated.

(g) Payment of Tax and Penalties for Late Payment. The Business Privilege Tax levied pursuant to this article for the tax year 1982, which shall include the period from February 1, 1982 through December 31, 1982, shall be due and payable as follows: One-third shall be due and payable on May 15, 1982, one-third shall be due and payable on July 15, 1982 and one-third shall be due and payable on September 15, 1982, and if the same is not paid on such dates, ten percent (10%) shall be added thereto, plus an additional one percent (1%) per month or fractional part of a month until paid. For the tax years 1983 and subsequent tax years to which this article is applicable, the business privilege tax levied pursuant to this article shall be due and payable on the date on which the taxpayer is required to file a return as set forth above, and if the same is not paid on such date, ten percent (10%) shall be added thereto, plus an additional one percent (1%) per month or fractional part of a month until paid.

(h) Receipt. The Tax Administrator shall, upon payment to him of the Business Privilege Tax, give the person paying the same a receipt therefor.
(Ord. 830 Sec. 4. Passed 12-21-81.)

341.05 LICENSE FEE.

After the effective date of this section, any person desiring to conduct, or to continue to conduct any business, as herein defined, within the Town shall file with the Tax Administrator an application for a Business Privilege License and shall pay a fee of five dollars (\$5.00) for the initial license. There shall be no fee required for license renewal. (Ord. 849. Passed 8-23-82.)

341.06 POSTING LICENSE.

The license issued shall be conspicuously posted in the place of business for which such license is issued, and shall remain in effect for the license year or fraction of year for which the license was issued. In cases where more than one place of business is conducted, a separate license shall be issued for each place of business. Any taxpayer who is in default in payment of tax due hereunder shall be refused a license until such tax is paid in full.
(Ord. 830 Sec. 6. Passed 12-21-81.)

341.07 TAX ADMINISTRATOR DUTIES.

(a) The Tax Administrator is charged with the duties of collecting and receiving the taxes, fines and penalties imposed by this article. It shall be his duty to keep a record showing the amount received by him for each person paying the tax and the date of such receipt. The Tax Administrator may delegate his authority hereunder, with the approval and consent of Council to a deputy or deputies.

(b) The Tax Administrator and his duly appointed deputies under the direction of Council are hereby empowered with the approval of Council to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination and correction of returns, and the payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred, and charged with enforcing the provisions of this article and any rules and/or regulations promulgated pursuant hereto.

(c) In the event the person to be assessed neglects or refuses to make a return, then in such case the Tax Administrator or his duly appointed deputies shall assess such person or persons on such an amount of whole or gross volume of business as the Tax Administrator or his deputies deem reasonable and appropriate. In all cases of assessment, the Tax Administrator or his duly appointed deputies shall give the parties assessed a notice in which shall be stated the amount of the Business Privilege Tax imposed or levied.

(d) The taxpayer shall maintain such records and books of account as shall enable him to make a true and accurate return in accordance with the provisions of this article. Such accounts and records shall disclose in detail the gross receipts and other data pertaining to the taxpayer's gross volume of business, and shall be sufficiently complete to enable the Tax Administrator or his deputies to verify all transactions. The Tax Administrator or his deputies are hereby authorized to examine the books, papers and records of any person or persons subject to or supposed to be subject to the tax imposed by this article, in order to verify the accuracy of the return made, or if no return was made, to ascertain the tax due.

(e) The Tax Administrator or his deputy is hereby authorized to compel the production of books, papers and records, and/or writings and documents of every nature and kind, of any person subject or supposed to be subject to the tax imposed by this article, for his review, inspection or copying, and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of such books, papers, records, documents, writings and/or knowledge of the business transacted by any taxpayer with the Town.

(f) Any person aggrieved by any decision of the Tax Administrator shall have the right to appeal to the Court of Common Pleas of Allegheny County, Pennsylvania. (Ord. 830 Sec. 9. Passed 12-21-81.)

341.08 CONFIDENTIAL NATURE OF INFORMATION.

Any information gained by the Tax Administrator or any other official, agent or employee of the Town, as a result of any returns, investigations, hearings or verifications required or authorized by this article, shall be confidential, except in accordance with proper judicial order or as otherwise provided by law. (Ord. 830 Sec. 10. Passed 12-21-81.)

341.09 SUIT ON COLLECTION AND PENALTY.

(a) The Tax Administrator or his duly appointed deputies shall have the power in the name of the Town to institute proceedings against any and all persons who violate the provisions of this article.

(b) If for any reason the tax is not paid when due and suit is brought for the recovery of any such tax, the person liable therefor, shall, in addition, be liable for the costs of collection and interest and penalties herein imposed. (Ord. 830 Sec. 11. Passed 12-21-81.)

341.10 SEVERABILITY.

(a) Nothing contained in this article shall be construed to empower the Town to levy and collect the taxes hereby imposed on any person, or any business, or any portion of any business not within the taxing power of the Town under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.

(b) If the tax, or any portion thereof, imposed upon any person under the provisions of this article shall be held by any Court of competent power or jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania or any other provision of the law, the decision of the Court shall not affect or impair the right to impose the taxes, or the validity of the taxes so imposed upon other persons as herein provided.

(c) The provisions of this article are severable, and if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the Court shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the intention of Council that this article would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein. (Ord. 830 Sec. 12. Passed 12-21-81.)

341.11 EFFECTIVE DATE.

This article is enacted pursuant to the authority of the Local Tax Enabling Act, 1965, December 31, Pamphlet Law 1257, as amended, and shall become effective thirty days after it has been passed by Council and shall continue thereafter unless amended or repealed. (Ord. 830 Sec. 13. Passed 12-21-81.)

341.99 PENALTY.

(a) Whoever conducts, transacts or engages in any of the businesses subject to the tax imposed by this article, without having first secured a Business Privilege License for the year, or any person who shall fail to a file a tax return as required by the provisions of this article, or any person who shall willfully file a false return, shall, upon summary conviction before any District Magistrate in the County be fined not more than three hundred dollars (\$300.00) for any one offense and recoverable costs.

(b) Each day on which such person violates this article may be considered as a separate offense and punishable as such as aforeprovided.
(Ord. 830 Sec. 7, 8. Passed 12-21-81.)

ADDENDUM "B"

TOWN OF MCCANDLESS DISCLOSURE STATEMENT UNDER THE LOCAL TAXPAYERS BILL OF RIGHTS (ACT 50 OF 1998)

It is the obligation of all taxpayers to file all local tax returns voluntarily and pay all local taxes to which they are subject. However, when the duly appointed or elected tax collector or tax collection agency for the municipality and/or school district in which the taxpayer resides determines that a required return has not been filed, or a tax liability has not been paid, the Local Taxpayers Bill of Rights grants certain legal rights to taxpayers, and imposes obligations on taxing authorities to ensure that equity and fairness guide local governments in the collection of taxes. In addition, the Local Taxpayers Bill of Rights provides the local government entity with certain legal methods to enforce taxpayer obligations. This disclosure statement sets forth your rights as a taxpayer in connection with any audit, examination, appeal or refund claim of taxes for the Town of McCandless, and any enforcement or collection actions taken by the Tax Office of the Town of McCandless (hereinafter referred to as the "Tax Office") on behalf of the Town of McCandless. A copy of the Town of McCandless Business Privilege Tax Rules and Regulations and Business Privilege Tax Ordinance can be obtained for a fee of \$9.63 (\$.25/page plus sales tax).

Applicability/Eligible Taxes

This Disclosure Statement applies to the Business Privilege Tax levied by the Town of McCandless. Unless expressly provided in the Local Taxpayers Bill of Rights, the failure of any person acting on behalf of the Tax Office to comply with any provisions of this Disclosure Statement, related regulations or the Local Taxpayers Bill of Rights will not excuse the taxpayer from paying the taxes owed.

Audit or Examination

If we contact you about your tax return or payment of any eligible taxes and/or penalty and interest, we will send you a letter with either a request for more information or a reason why we believe a change to your return or taxes may be needed. If we request information, you will have thirty (30) calendar days from the date of the mailing to respond. Reasonable extensions of such time will be granted upon application for good cause. We will notify you of the procedures to obtain an extension with our initial request for tax information. Our initial inquiry 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 our notice. If you give us the requested information or provide an explanation, we may

TOWN OF MCCANDLESS DISCLOSURE STATEMENT

or may not agree with you. If we do not agree with you, we will explain in writing our reasons for asserting that you owe us the tax (which we call an "underpayment") and/or penalty and interest. Our Determination Letter will include: (1) the tax period or periods for which the underpayment is asserted and/or penalty and interest is due; (2) the amount of the underpayment and/or penalty and interest detailed by tax period; (3) the legal basis upon which we have relied to determine that an underpayment exists and/or penalty and interest is due; and (4) an itemization of the revisions made by us to your return or report that results in our decision that an underpayment exists. If you agree with our changes, you should pay the additional tax and/or penalty and interest.

Requests for Prior Year Returns

An initial request by the Tax Office into prior year returns may cover tax returns required to be filed as far back as three (3) years prior to the mailing date of the notice. If the Tax Office determines that the taxpayer failed to file a tax return, underreported income or failed to pay a tax for one or more of the tax periods covered by the initial request, the Tax Office may request additional information. The Tax Office may also require a taxpayer to provide copies of federal and/or state tax return(s) when the Tax Office can show that the taxpayer's federal and/or state tax return(s) is (are) reasonably necessary for the enforcement or collection of tax, and the information is not available from other sources or the Pennsylvania Department of Revenue. If the Tax Office has sufficient information to indicate that you failed to file a required return or pay an eligible tax which was due more than three years prior to the date of the notice, the three-year time limit for the initial request does not apply, and the Tax Office can go back indefinitely.

Review of Notice

Any person aggrieved by an initial notice from the Tax Office may, within thirty (30) calendar days after receipt of notice, seek a review by the Tax Collector by forwarding a letter stating in detail why you believe the notice to be incorrect and including documentation to support your Petition for Review and a telephone number where you can be reached between 9 a.m. and 5 p.m.. This letter should be addressed to Tax Collector, Town of McCandless, 9955 Grubbs Road, Wexford, PA 15090, and must be in our hands or postmarked by the U.S. Postal Service or other carrier that certifies receipt of any package (ie. Federal Express, United Parcel Service, etc.) within this 30 calendar day period. A meeting or hearing will be arranged within 30 calendar days of receipt of the letter. Any additional documentation may be presented that may influence the amending of your account to the satisfaction of both parties. A decision on this review shall be rendered by the Tax Collector within 60 calendar days of the close of the meeting or hearing. Failure of the Tax Collector to act within 60 calendar days shall result in your request being deemed approved.

Appeal of Decision

You may appeal the decision of the Tax Collector to a Hearing Officer formally appointed by Town Council by submitting a written request to the Tax Collector, to be postmarked within 30 calendar days of receipt of the Tax Collector's ruling. This request must be accompanied by the payment of a deposit fee of \$125, as set by Town Council. If the result of this appeal is a ruling in your favor, the deposit fee will be refunded within

TOWN OF MCCANDLESS DISCLOSURE STATEMENT

30 calendar days of receipt of the ruling. The request for an appeal is not considered complete and timely unless the deposit fee accompanies the request. The Tax Collector will make every reasonable effort to consider the needs of all parties involved when requesting the hearing date from the Hearing Officer. After the Hearing Officer sets the date of the hearing, the Tax Collector will notify you in writing. Both parties will then submit directly to the Hearing Officer a brief plus attachments stating his/her arguments; the length of the brief may be determined by the Hearing Officer. Each party will submit a copy to the other on this correspondence, and the documents must be received by all parties not less than five (5) business days before the hearing itself. The hearing will take place in Council Chambers at Town of McCandless' Town Hall, 9955 Grubbs Road, Wexford, PA 15090. If a recording is required, the hearing will take place in the Assembly Room at Town Hall. The hearing may be recorded at the option of the Hearing Officer, and you may be required to provide verification that all factual information presented is true, correct, and complete to the best of your knowledge and belief. If a record is made of the hearing, you may obtain a copy of the record by paying a fee equal to fifty percent (50%) of all costs incurred in the preparation and transcription of the record.

The purpose of the hearing shall include, but not be limited to, a review of all documents, data, and records produced by you and the Tax Collector, and shall provide an opportunity for you to be heard on issues directly relating to the filing of your tax return and payment of your taxes. Each party will be given the opportunity to present his/her case, beginning with the Tax Collector. The duration of each presentation shall be determined by the Hearing Officer. The Hearing Officer will render an opinion within ten (10) business days after the hearing or any continuation thereof is completed. The opinion will be in writing and addressed to you, with a copy to the Tax Collector. The opinion will be mailed to your last known address by ordinary mail and shall become your formal notice of tax liability or your formal request for a refund as of the date of that determination. The Hearing Officer reserves the right to continue the hearing to a future date if time constraints or other issues prevent completion on the initial hearing date.

If you do not agree with the decision of the Hearing Officer, you may appeal to the appropriate Court of Common Pleas of Allegheny County. You must file your appeal within 30 calendar days after the notice of the decision of the Hearing Officer.

Refunds

You may file a claim for refund ("Refund Claim") if you think you paid too much tax. You must file the Refund Claim within three (3) years of the due date for filing the return as extended or one year after actual payment of the tax, whichever is later. If no report or local tax return is required for the tax, the Refund Claim must be made within 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. If your Refund Claim relates to amounts paid as a result of a notice asserting an underpayment of tax, your request for Refund Claim must be filed within 1 year of the date of payment. Refund claims must be made on forms prescribed by us and must include supporting documentation. You can obtain forms for Refund Claims by contacting us at (412) 364-0616. Your Refund Claim must be filed with us at

TOWN OF MCCANDLESS DISCLOSURE STATEMENT

9955 Grubbs Road, Wexford PA, 15090. If you file a tax return showing overpayment of tax, we will treat that as a request for a cash refund unless you indicate otherwise. If your Refund Claim is denied, you may file a Petition for Review contesting the denial of the refund. Any Petition for Review must be filed within the same time limits that apply for a Refund Claim. Alternatively, you may file a Petition for Review for a refund without first filing a Refund Claim.

Enforcement Procedures

Once it has been determined that you owe a tax and/or penalty and interest, we will take all action deemed appropriate we are legally enabled to take to enforce our claim. Such action may include obtaining additional information from you, auditing your records, entering into a settlement with you of the disputed amount of the tax and/or penalty and interest, or obtaining liens on your property, wage attachments, levies, and seizures and sales of your property in appropriate circumstances. We may enter into a written agreement with you for payment of the tax in installments if we believe that such an agreement will facilitate collection. We may also impose interest and applicable penalties on the tax you owe, and may seek criminal prosecution of you in appropriate circumstances.

Tax Information Confidentiality

Information gained by the Town of McCandless Tax Office or the Town's Hearing Officer as a result of any audit, return, report, investigation, hearing, appeal or verification shall be confidential. However, confidentiality will not preclude disclosure for official purposes, whether in connection with legal proceedings or otherwise, and it will not preclude disclosure to the extent required by applicable law.

Taxpayer Complaints

If you have a complaint about any action relating to the Town of McCandless' taxes, Tobias M. Cordek, Town Manager, may be contacted in writing at 9955 Grubbs Road, Wexford, PA 15090. This individual will attempt to facilitate resolution of your complaint by working with the appropriate personnel of the Tax Office and/or Hearing Officer.

For more information, please contact Linda J. Grinnik, Tax Administrator, or Regis J. Ebner Jr., Tax Collector, at 9955 Grubbs Road, Wexford, PA 15090 or by telephone at (412) 364-0616.

Submitted by: _____
Regis J. Ebner Jr.
Tax Collector