

# CITY OF WILLIAMSPORT, PA

## FILE OF CITY COUNCIL

BILL No. 1703-17

SESSION OF 2017

Approved on first reading

Members of City Council:

Approved on final reading

This day 9<sup>th</sup> of NOV, 2017

WILLIAMSON, ALLISON, SMITH,  
MIELE, KATZ, NOVIELLO, HENDERSON

This day 21 of NOV, 2017

### AN ORDINANCE

6339

#### ORDINANCE OF THE CITY OF WILLIAMSPORT, LYCOMING COUNTY, PENNSYLVANIA, REPEALING PART III, ARTICLE 301, OF THE CITY CODE (BOARD OF REVISION OF TAXES AND APPEALS) AND REPLACING SAME WITH A LOCAL TAX HEARING OFFICER APPEALS PROCESS

WHEREAS on November 20, 1975, the City Council ("Council") of the City of Williamsport ("City"), Lycoming County, Pennsylvania, created a Board of Revision of Taxes and Appeals to hear appeals from taxpayers for all taxes other than real estate taxes; and

WHEREAS, pursuant to the Local Taxpayer Bill of Rights Act, 53 Pa.C.S. §8430, Council may instead provide for a hearing and review by a local tax hearing officer; and

WHEREAS, in accordance with the Local Taxpayer Bill of Rights Act, Council desires to provide for appeal to a local tax hearing officer; and

WHEREAS, pursuant to the Local Taxpayer Bill of Rights Act, 53 Pa. C.S. §8432, practice and procedure for an appeal to a local tax hearing officer shall not be governed by statutes related to practice and procedure of local agencies and related to judicial review of local agency action; and

WHEREAS, Council desires that appeal to the local tax hearing officer be at the discretion of the taxpayer;

**NOW, THEREFORE, BE IT ORDAINED THAT:**

**SECTION I.** Article 301 (Board of Revision of Taxes and Appeals) of the City Code is repealed and replaced with a new Article 301 as follows:

A. CREATION OF POSITION, TERM, ALTERNATE

There is hereby created the position of Local Tax Hearing Officer, who shall have the power to hear and decide appeals made pursuant to and in accordance with the Local Taxpayer Bill of Rights Act.

The position of Local Tax Hearing Officer shall be filled by appointment by Council from time to time. The Local Tax Hearing Officer shall serve at the pleasure of Council and shall be compensated as may be fixed by Council in the appointment or as modified from time to time.

Council shall also appoint an Alternate Local Tax Hearing Officer who shall serve as Local Tax Hearing Officer in the event the person appointed as Local Tax Hearing Officer has a conflict of interest or is otherwise unable to serve as hearing officer for purposes of any given appeal.

B. POWERS OF THE HEARING OFFICER

The Local Tax Hearing Officer shall have the power to hear and determine tax appeals filed pursuant to the Local Taxpayer Bill of Rights Act.

The Local Tax Hearing Officer shall not have authority or discretion to abate penalty or interest. With respect to an appeal seeking review of the imposition of penalty and interest, the Hearing Officer may only determine whether interest and penalty have been properly calculated or whether the Local Taxpayer Bill of Rights Act requires a mandatory abatement of penalty and interest.

C. TIME AND PROCEDURE FOR FILING APPEAL

1. Form of Petition: A Taxpayer may appeal any tax assessment, tax determination or denial of refund of tax by filing a Petition for Review by Local Tax Hearing Officer. All Petitions shall be mailed or delivered to: City of Williamsport, Attn: City Treasurer, PO Box 1283, 245 W. Fourth Street, Williamsport, PA 17701.

Petitions for Review by Local Tax Hearing Officer shall be in writing on a form prescribed by the City of Williamsport. A Petition is timely filed if the letter transmitting the Petition is postmarked by the United States Postal Service on or before the final day on which the Petition is required to be filed. If hand delivered, a Petition will be deemed to be filed on the date received in the City Treasurer's office at the address shown above.

Petitions shall: (1) state the name, address and telephone number of the Taxpayer and Taxpayer's authorized representative (if applicable), (2) identify the tax and tax period(s) to which the Petition pertains, (3) state

the amount of tax appealed and the legal basis for the appeal (i.e., state how or why the assessment is incorrect; or why a refund request should have been granted), (4) provide copies of all supporting documentation and calculations, (5) state whether a hearing before the Hearing Officer is requested, and (6) certify under penalty of perjury that the facts in the Petition are true and correct and that the Petition is not filed for purposes of delay.

There shall be no fee for filing a Petition for Review by Local Tax Hearing Officer.

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

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

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

#### D. APPEALS PROCESS, PROCEDURE AND CONDUCT OF HEARING.

Upon receipt of a timely filed Petition for Review by Local Tax Hearing Officer, the City shall: (a) promptly schedule a hearing if a hearing has been requested by the Taxpayer (if a hearing is not requested, the Petition will be determined on the record before the Local Tax Hearing Officer), (b) provide the Taxpayer with a Notice of Hearing (setting forth the time, date, and location of the hearing), and (c) forward the Taxpayer's Petition to the Local Tax Hearing Officer appointed by the City. Unless the date of the hearing is agreed upon by all parties, the City shall give at least seven (7) days written notice of the hearing to Taxpayer.

1. Hearings. Hearings shall be held at City Hall, 245 W. Fourth Street, Williamsport, PA 17701, and due to taxpayer confidentiality requirements shall not be open to the public. Hearings will be informal in nature and technical rules of evidence will not be applicable, except that no person may testify as to matters about which

he/she does not have personal knowledge. All persons who testify shall do so under oath. At the discretion of the hearing officer, the hearing may take place and/or witnesses may appear from remote locations.

(a) Representation. Taxpayers may appear before the Hearing Officer with or without benefit of representation. Any person seeking to represent a Taxpayer at the hearing must first be so authorized by the Taxpayer in writing. A Taxpayer's representative may only testify as to matters about which he/she has personal knowledge.

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

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

2. Local Tax Hearing Officer's Decision. After the conclusion of the hearing, the Hearing Officer shall issue a written Decision to the parties within sixty (60) days from the date of the filing of the Petition, unless the taxpayer has waived its right to receive a decision within sixty (60) days.

E. JUDICIAL APPEAL

Any person aggrieved by a Decision on a Petition for Review, who has a direct interest in the Decision, has the right to appeal to the Court of Common Pleas of Lycoming County, Pennsylvania for a *de novo* review.

**SECTION II.** This Ordinance shall become effective January 1, 2018.

ENACTED AND ORDAINED this 21<sup>st</sup> day of NOV, 2017.

CITY OF WILLIAMSPORT

By: Sabre J. Camp  
Name:  
Title:

ATTEST:  
Janice Frank  
Name: Janice Frank  
Title: City Clerk