

**MUNICIPALITY OF NORRISTOWN  
MONTGOMERY COUNTY, PENNSYLVANIA**

Resolution No. 16-109 of 2016

**A RESOLUTION OF THE COUNCIL OF THE MUNICIPALITY OF NORRISTOWN,  
MONTGOMERY COUNTY, PENNSYLVANIA, ESTABLISHING THE REGULATIONS  
TO IMPLEMENT THE LOCAL TAXPAYERS BILL OF RIGHTS**

**WHEREAS**, Norristown Municipal Council has adopted Ordinance No. 16-01 entitled “The Local Taxpayer Bill of Rights” which became effective on March 6, 2016; and

**WHEREAS**, Ordinance No. 16-01 required Council to establish regulations by Resolution to implement The Local Taxpayer Bill of Rights; and

**NOW, THEREFORE, BE IT RESOLVED**, that the following regulations are hereby adopted pursuant to Ordinance No. 16-01.

**LOCAL TAXPAYER BILL OF RIGHTS**

**I. RIGHTS OF A TAXPAYER AND THE OBLIGATION OF THE MUNICIPALITY DURING AN AUDIT OR AN ADMINISTRATIVE REVIEW OF THE TAXPAYER’S BOOKS OR RECORDS.**

**A. Taxpayer Response.**

1. Thirty days to respond. If the Municipality of Norristown (“Norristown”) requests information, the taxpayer has thirty (30) days from the mailing date Norristown’s request to respond.
2. Extensions. Norristown may grant reasonable extensions to respond upon application in writing for good cause. The taxpayer’s written request for an extension should be received by the Finance Director within the first thirty (30) days period.
3. No action within the response period. Norristown will not take action against the taxpayer for a tax year in question until the end of the response period, including extensions.

**B. Tax Years in Question.**

1. Norristown’s initial request is limited to 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.

2. If Norristown determines that a taxpayer has failed to file a tax return, underreported income, or failed to pay a tax for one (1) or more of the tax periods covered by the initial request, Norristown may make a subsequent request for a tax return or other supporting information.
  3. If taxpayer has failed to file a required return or pay a tax which was due more than three (3) years prior to the date of the notice, then the three (3) year period will not apply. In that event, Norristown may make a request for tax returns or other supporting information up to five (5) years prior to the mailing date of the notice, and may assess a tax for tax periods more than five (5) years prior to the date of the notice in accordance with the Local Tax Enabling Act, P.S. § 6924.319.
- C. Use of Federal Tax Information. Norristown may require the taxpayer to provide copies of the taxpayer's federal income tax return if the federal tax return is reasonable necessary for the enforcement or collection of Norristown taxes and the information is not available from other available sources or the Pennsylvania Department of Revenue.
- D. Notice of Basis of Underpayment. Norristown will notify the taxpayer in writing of the basis for any underpayment that Norristown has determined to exist, including:
1. The tax period or periods for which the underpayment is asserted.
  2. The amount of or underpayment detailed by tax period.
  3. The legal basis upon which Norristown has relied to determine that an underpayment exists.
  4. An itemization of any revisions made by Norristown to return or report filed by the taxpayer that result in the determination of an underpayment.
- E. Abatement of Certain Interest and Penalty.
1. Errors and Delays. Norristown may abate all or any part of interest for any period if the underpayment was caused by any error or delay can be attributed to the taxpayer.
  2. Abatement Due to Erroneous Written Advice by Norristown
    - a. Norristown will abate any portion of any penalty or excess interest attributable to erroneous written advice furnished to the taxpayer by Norristown if the written advice was reasonably relied upon by the taxpayer, was in response to a specific written request by the taxpayer, and the portion of penalty or additional tax or excess interest did not result from a failure by the taxpayer to provide adequate or accurate information.

- b. The taxpayer should not rely on advice given which is not in writing and in response to specific written request. Norristown is not required to provide written advice to taxpayers.
- F. Application of Payments. Unless specified by the taxpayer, all voluntary payments of taxes shall be prioritized and applied, in the following order: to the tax, the interest, the penalty and other fees and charges.
- G. Books and Records.
  - 1. Books, journals, invoices, documents and other accounting records utilized the taxpayer in the ordinary course of business must be kept in a manner which will reflect actual business operations. There must be objective, criteria in these books and records, as well as in underlying documents, such as invoices, to support the returns filed by the taxpayer. A taxpayer claiming exemptions or exclusions for any portion of gross receipts must maintain complete records which will support the validity of the claim. Such claims will be disallowed if not sufficiently proven by the taxpayer.
  - 2. If records are not available for the entire period requested for review, Norristown may utilize whatever information or records are available to reconstruct, as accurately as possible, figures that reflect the business activity of the taxpayer for the period involved.
  - 3. If records are not available to support the returns which were filed or which should have been filed, the taxpayer will be required to make them available to Norristown at the cost of taxpayer.
- H. Inspection and Examination. Norristown's Finance Director, or the designated representative of the Finance Director, is authorized to examine the books and records of any taxpayer in order to verify the accuracy of any return made, or if no return was made, to ascertain whether the tax should be imposed and, if so, the amount of the tax due.
- I. Audits. Norristown's Finance Director has the right to have a designed representative of Norristown audit any return and to verify its accuracy or assess its efficiency, together with penalty and interest, upon the completion of that review.
- J. Installment Agreements. Norristown may enter into a written agreement with any taxpayer under which the taxpayer is allowed to satisfy a tax liability in installment payments, if Norristown determines that the agreement will facilitate collection. An installment agreement may be modified or terminated if the taxpayer provided inaccurate or incomplete information; if the collection of the tax is in jeopardy; if there is a significant change in the taxpayer's financial condition, provided that proper notice is given in accordance with The Local Taxpayers Bill of Rights, 53 Pa.S.C.A. 8421-8438; or if the taxpayer fails to provide a financial condition update, fails to pay any other tax liability at the time of the liability is due, or fails

to pay an installment when due pursuant to such agreement.

K. Confidentiality of Tax Information. Any information gained by Norristown as a result of any audit, return, report, investigation, hearing or verification shall be confidential tax information except as otherwise provided by law.

L. Taxes on Real Property. Except for the provisions pertaining to interest on overpayments, the contents of this Taxpayers Bill of Rights shall not apply to any tax on real property.

**II. ADMINISTRATIVE AND JUDICIAL PROCEDURES BY WHICH A TAXPAYER MAY APPEAL OR SEEK REVIEW OF ANY ADVERSE DECISION OF NORRISTOWN.**

A. Administrative Appeals. The administrative process shall consist of the following:

1. Petition. 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. Petitions not timely filed shall be denied by Norristown.

a. Refund petitions shall be filed within three (3) years after the due date for filing the tax return, as extended, or one (1) year after actual payment of the tax, whichever is later.

b. Petitions for reassessment of a Norristown tax shall be filed within ninety (90) days of the date of the assessment notice of underpayment.

2. Contents of Petition. The petition shall be in the form attached hereto and shall include the name, address and federal taxpayer employer identification number or social security number of the petitioner; shall provide in detail the nature of the taxpayer's claim and the taxpayer's accounting and legal basis for the claim.

3. Municipal Council Review. Municipal Council shall review the petition in executive session.

4. Written Decision by Municipal Council. Municipal Council shall issue a written decision within 60 days of the date a complete and accurate petition is received. The decision of Council shall be timely made if notice of the decision is mailed to the taxpayer, postmarked no later than sixty (60) days after the date of actual receipt of the complete and accurate petition by Norristown. Failure by Norristown to act within the sixty (60) days shall result in the petition being deemed approved.

5. Applicable Law. Decisions by Municipal Council may be made according to principles of Pennsylvania law and equity.

B. Judicial Appeal. Any person aggrieved by a final decision of Municipal Council may, within thirty (30) days after notice of such decision, appeal the decision to the

Court of Common Pleas of Montgomery County, Pennsylvania. No administrative processes or judicial appeal will operate to suspend the accrual of penalty and interest from the date the tax was due to the date it is actually paid.

### **III. PROCEDURES FOR FILING AND PROCESSING REFUND CLAIMS AND TAXPAYER COMPLAINTS.**

- A. Refund for Overpayment. A taxpayer may file a written request with the Finance Director for a refund or credit of any Norristown tax subject to Ordinance No.16-01 within three (3) years of the due date for the tax return, as extended, or one (1) year after actual payment of the tax, whichever is later. For amounts paid as a result of a notice of asserting or informing a taxpayer of an underpayment, a written request for refund shall be filed with the Finance Director within one (1) year of the date of the payment.
- B. Interest of Overpayment. All overpayments of the tax paid to Norristown shall bear simple interest from the date of overpayment until the date of resolution at the same interest rate as the Commonwealth of Pennsylvania is required to pay pursuant to the Pennsylvania Fiscal Code, except:
  - 1. No interest shall be paid if an overpayment is refunded or applied against any other Norristown tax, interest or penalty due within seventy-five (75) days after the due date of a tax return or within seventy-five (75) days after the actual filing of a tax return, whichever is later, and no interest shall be paid on overpayments of interest or penalty. Acceptance of a refund check by a taxpayer shall not prejudice the taxpayer from claiming any additional overpayment and interest thereon. Tender of a refund check by Norristown shall be deemed to be acceptance of the check by the taxpayer for the purposes of this section. The definitions of “date of overpayment” and “date of resolution” shall be in accordance with Pennsylvania Act 50-1998, 53 Pa.C.S.A. 8421-8438.
- C. Taxpayer Complaint. All taxpayer complaints shall be directed to the Finance Director.

### **IV. Enforcement Procedures**

- A. Legal Action for Recovery of Unpaid Taxes, Penalty and Interest. Norristown may bring legal action to seek compliance with Municipality’s ordinances, including but not limited to audit compliance and to recover taxes, penalty and interest due as follows:
  - 1. Criminal Citation. The filing of a criminal citation in the District Court having jurisdiction for violation of Norristown’s tax ordinances. Violations of the tax ordinances, may result in the imposition of fines up to \$600.00 per day.
  - 2. Municipal Lien. The filing of a municipal lien for the amount of the tax

together with any interest and penalties.

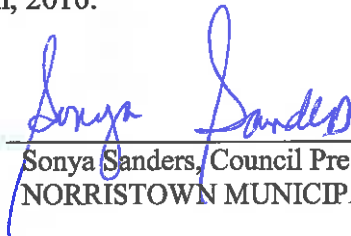
3. Civil Complaint. The filing of a civil complaint in the Court of Common Pleas of Montgomery County for all past and current taxes due plus penalties and interest.
4. Fees and Costs. In all legal actions, Norristown will request court costs and attorney and accounting fees.

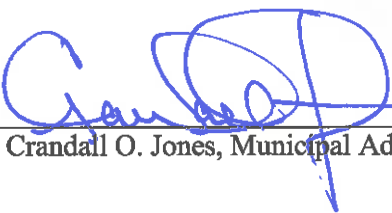
**V. NOTIFICATION PROCEDURE.**

A. Norristown shall notify any taxpayer contacted regarding the assessment, audit, determination, review or collection of an eligible tax (as defined in The Local Taxpayer Bill of Rights, 53 Pa.C.S.A. 8421-8438) of the availability of this Resolution and shall make copies of this Resolution available to the taxpayers upon request at no charge to the taxpayer, including mailing costs. Such notification shall include the following statement:

You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes by calling the Municipality of Norristown at 610-272-8080 during the normal business hours of 8:30 am to 4:30 pm, Monday to Friday.

**RESOLVED AND ADOPTED** this 15<sup>th</sup> day of March, 2016.

  
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Sonya Sanders, Council President  
NORRISTOWN MUNICIPAL COUNCIL

ATTEST:   
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Crandall O. Jones, Municipal Administrator