

# Mercer County Tax Collection Committee

## Bylaws

Version 005B

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## **Preambles**

### **Commonwealth of Pennsylvania**

Act 32 enacted on July 2, 2008 amends the Local Tax Enabling Act, Act 511 of 1965, to consolidate the collection of Earned Income Tax (EIT) on a countywide basis.

### **Mercer County Tax Collection Committee**

The Mercer County Tax Collection Committee (“TCC”) is a government entity created and organized under Act 32 of 2008, 53 P.S. § 6924.501 *et seq.*, which amended and restated the Local Tax Enabling Act (“LTEA”), 53 P.S. § 6901 *et seq.* Under Act 32, the TCC is required to appoint a tax officer to collect earned income and possibly other taxes on a county-wide basis, and to oversee tax collection within the Mercer County Tax Collection District (“TCD”) for all of the member Taxing Authorities (the school districts and municipalities).

The TCD school districts are: Commodore Perry, Farrell, Greenville, Grove City, Hermitage, Lakeview, Mercer, Reynolds, Sharon, Sharpsville, and West Middlesex.

The TCD cities are: Farrell, Hermitage, and Sharon.

The TCD townships are: Coolspring, Deer Creek, Delaware, East Lackawannock, Fairview, Findley, Hempfield, Jackson, Jefferson, Lackawannock, Lake, Liberty, Mill Creek, New Vernon, Otter Creek, Perry, Pine, Pymatuning, Salem, Sandy Creek, Sandy Lake, Shenango, South Pymatuning, Springfield, Sugar Grove, West Salem, Wolf Creek, and Worth.

The TCD boroughs are: Clark, Fredonia, Greenville, Grove City, Jackson Center, Mercer, New Lebanon, Sandy Lake, Sharpsville, Sheakleyville, Stoneboro, West Middlesex, and Wheatland.

## **Article I – Board of Delegates**

### **Section 1 - Governing Body**

The governing body of the Mercer County Tax Collection Committee (the “TCC”) shall be called the Board of Delegates (the “Board”). The Board shall consist of voting delegates appointed by the school districts and municipalities (the “Taxing Authorities”) within the Mercer County Tax Collection District (the “TCD”). Subject to these By-Laws and Act 32 of 2008 (53 P.S. § 6924.101 *et seq.* (2008)), the Board shall have full power and authority to act as the governing body of the TCC.

## **Section 2 – Delegates**

Each Taxing Authority that imposed an income tax prior to July 1, 2009, shall appoint one voting delegate, an alternate delegate and, if desired, a second alternate delegate. In the absence of the voting delegate, the first alternate delegate will be considered the voting delegate. In the absence of both the voting delegate and the first alternate delegate, the second alternate delegate will be considered the voting delegate. All delegates serve at the pleasure of and may be removed at any time by the governing body of the Taxing Authority that appointed the delegate.

## **Section 3 – General Voting**

All actions taken by the Board shall be by majority vote of those delegates present, provided that a quorum is present at the time of voting. Each delegate shall have the sum voting power for each taxing authority that the delegate represents.

### **Headcount Vote**

Headcount vote (where each taxing authority receives an equally weighted vote of “1”) is to be used for the specific non-expense procedural items of: election of officers, approval of appointments, and employment decisions. All employment decisions must be based on an existing “not to exceed” budget line item or an existing off-budget allocation for the position under consideration.

### **Weighted Vote**

Weighted vote is to be used for all voting not otherwise specifically designated as a headcount vote. The weight of each taxing authority’s vote is the DCED calculated proportional EIT percentage for each taxing authority. This percentage is to be recalculated annually by the auditors. This specifically allows those taxing authorities who are allocated higher TCC costs a higher voting weight. This is specifically justified for expense related items such as passing the budget, approval of bills, authorizing off-budget items, and approval of lowest qualified bids / solicited RFPs that meet all specified requirements.

### **Weighted Vote Exception for Annual Expenses**

In the event that a particular expense related vote would increase any given taxing authority’s annual cost by more than 25% over the previous year’s cost to that taxing authority, then that particular vote must be done on a headcount vote. This provides an expense ceiling to maintain fiscal stewardship and to protect the minority vote taxing authorities’ budget constraints while still providing a means of obtaining a passing vote on a major expense item that is justifiable to the majority count of the TCC membership.

#### **Section 4 – Vote Required for Certain Decisions**

Notwithstanding any other provisions of these bylaws, action taken by the Board on the following issues or matters shall be by roll call vote and shall require the affirmative vote of a two-thirds (2/3) supermajority of all the delegate votes present:

- 1) Amendment of these bylaws
- 2) Approval to merge or take joint section with one or more other TCCs to form a multi-county TCC
- 3) Approval to purchase or sell real estate
- 4) Appointment of additional officers
- 5) Approval to incur debt in excess of \$20,000 that is not already authorized in the budget

#### **Section 5 – Quorum**

Quorum shall be established by the presence of a majority of the voting delegates of the TCC. For purposes of calculating quorum, a delegate representing more than one taxing authority shall represent an amount in correlation to the number of taxing authorities the delegate represents.

#### **Section 6 – Meetings**

Meetings of the Board shall be held on such dates as shall be established by the Board but no less often than quarterly. Public meetings of the Board shall be subject to the Sunshine Act (65 Pa. C.S.A. § 701 *et seq.*). Special meetings may be called by the Chairperson. The Secretary shall maintain the minutes of the meetings of the Board.

#### **Section 7 – Board Duties**

The duties of the Board shall include the following:

- a) The Board shall receive and review information provided by the Secretary, Chairperson and others in order to keep fully informed as to TCC business, operations and other affairs.
- b) The Board shall keep records of all votes and other actions taken the TCC.
- c) The Board shall appoint and oversee a Tax Officer. In addition, the Board shall set the compensation of the Tax Officer and shall require, hold, set and review the Tax Officer's bond.
- d) The Board shall establish the manner and extent of financing of the tax collection committee.
- e) The Board shall adopt, amend and repeal bylaws, resolutions, policies and procedures for the administration of the collection of taxes within the tax collection district.
- f) At each regular Board meeting, the Treasurer shall present a report to the Board of all TCC expenditures paid or incurred during the calendar year quarter proceeding the month in which the meeting is held.

- g) Although the Board in performing its duties will rely substantially on information from and decisions by the Secretary, Chairperson and others, the Board shall have ultimate responsibility and authority with respect to TCC business, financial oversight and other TCC affairs.
- h) The Board will always have the right to direct TCC action on any matter by policy, resolution, directive or other measure, including a direction that reverses prior action of any committee or officer. Any reversal of a prior action shall not negate any contract rights acquired by a third party pursuant to a contract properly approved before the Board actions reversing the prior decision.

### **Section 8 – Retention of Board Authority**

Except as otherwise provided in these bylaws, all powers of the TCC shall be exercised by or under authority of the Board, and the business and affairs of the TCC shall be managed under direction of the Board. The Board may delegate authority for actions to committees, officers and others. However, without regard to any prior delegation of authority, only the Board shall have authority to act on any of the following:

- a) Adoption, amendment or repeal of policies, procedures, bylaws or resolutions.
- b) Approval to merger or take joint action with one or more other TCCs to form a multi-county TCC.
- c) Approval to acquire, lease, rent or dispose of real or personal property.
- d) Appointment of additional officers.
- e) Approval of the TCC annual budget.
- f) Appointment or removal of TCC officers.
- g) Appointment of the TCC solicitor, TCC auditor, TCC insurance agent and Tax Appeal Board Members.
- h) Approval to create a bureau to collect taxes within the TCD, or to dissolve any such bureau.
- i) Approval of requests by political subdivisions for the TCC to collect any tax other than income tax.
- j) Appointment of the Tax Officer and approval or termination of the tax collection agreement with the Tax Officer.
- k) Approval to open, relocate or close any office.
- l) Ratification of all TCC expenditures.
- m) Initiation of lawsuits.
- n) Transfer of funds between or among TCCs.
- o) Approval to borrow money, accept grants, incur indebtedness and issue notes, debentures and other obligations to evidence borrowing.

- p) Any other issue or matter as to which the Board in the future adopts a resolution reserving the authority to act on the issue or matter.
- q) See Appendix A for examples of additional items.

## **Article II – Officers, Agents and Employees**

### **Section 1 – Officers**

The Board will have and shall elect the following officers: Chairperson, Vice-Chairperson, Secretary / Open Records Officer, Treasurer and any other officers as provided by these bylaws (the “Officers”). Beginning on January 1, 2011 and every year thereafter, each officer shall hold office for a term of one (1) year starting January 1 and until a successor has been elected, or earlier if a vacancy occurs. Any Officer may be removed by the Board at any time, with or without cause.

### **Section 2 – Annual Meeting**

In the year after the first meeting and every year thereafter, the Board shall designate a regular meeting in December as its annual reorganization meeting. At the annual organization meeting, the Board shall elect officers, review the Tax Officer’s performance, and as necessary the Board may appoint a solicitor, a certified public accountant or public accountant to perform an annual audit of the tax collection activities of the Tax Officer and the financial activities of the TCC, the members of the Tax Appeal Board, and one or more banks to serve as the primary depository for the TCC.

All duties will cease on December 31 for outgoing officers and appointments, and all duties will begin on January 1 for incoming officers and appointments. In the event that an acting officer is removed by their taxing authority as their official delegate, the officer will have the option to continue in that position minus any voting rights – with TCC approval. This continuation of the position beyond their delegate status is to preserve sustainable operations. The officer will be ineligible for subsequent elections.

### **Section 3 – The Chairperson**

The Chairperson shall be a voting delegate at the time of nomination. The Chairperson shall preside at Board meetings, set Board meeting agendas, and perform other duties as designated by the Board.

### **Section 4 – The Vice-Chairperson**

The Vice-Chairperson shall be a voting delegate at the time of nomination. The Vice-Chairperson shall perform duties as designated by the Board. In the event of the Chairperson’s

absence or unavailability, the Vice-Chairperson shall perform the duties of the Chairperson at that meeting only.

### **Section 5 – The Secretary**

The Secretary shall be a voting delegate at the time of nomination. The Secretary shall maintain the minutes and records of the Board and provide notices to each delegate and alternate appointed to the TCC. If the Secretary is not in attendance at a meeting, the Chairperson shall designate one of the delegates in attendance to act as Secretary for purposes of that meeting only. Within thirty (30) days after the election of any officer, the Secretary shall notify DCED of the name and address of each officer.

### **Section 6 – The Treasurer**

The Treasurer shall be a voting delegate at the time of nomination. The Treasurer shall have the care and custody of all operational monies belonging to the TCC, shall cause such monies to be deposited into such financial institutions and accounts as designated by the Board, shall make a report of TCC finances at each Board meeting, shall assist in the preparation of the budget and shall make financial information available to the Board, the Officers, the committees and shall exercise all duties incident to the office of the Treasurer. The Board shall require the Treasurer to have a bond in an appropriate amount as determined by the Board. The cost of the Treasurer's bond will be assumed by the TCC.

### **Section 7 – Additional Officers**

The Board may appoint officers in addition to the Chairperson, Vice-Chairperson, Secretary, and Treasurer. Any additional officer may or may not be a voting delegate, shall not preside at meetings unless both the Chairperson and Vice-Chairperson are absent or unavailable, and shall perform duties as designated by the Board.

### **Section 8 – Tax Officer**

The Board shall appoint a Tax Officer for the assessment, collection and administration of income taxes levied, imposed and collected in fiscal years beginning on and after January 1, 2012. Prior to initiating any official duties, the Tax Officer shall give and acknowledge a bond to the TCC consistent with the provisions of 53 P.C. § 6924.509(d) and any regulations or guidelines published by DCED.

### **Section 9 – Solicitor**

The Board shall appoint a Solicitor to advise the TCC regarding any legal issues that may arise. The Solicitor may be present at all regular meetings of the Board and may be present at other meetings of the Board, Management Committee, Executive Director and Tax Appeal Board

upon request with proper notice given. Billable time is only authorized through the TCC board of officers.

### **Section 10 – Open Records Officer**

The Open Records Officer duties shall be performed by either the Secretary or instead by the Executive Director if one is appointed. The Open Records Officer shall consult with the Solicitor as needed and ensure that the TCC is compliant with The Right to Know Law, 65 P.S. § 67.101 *et seq.* The Open Records Officer shall receive Right to Know requests submitted to the TCC, direct the requests to the appropriate person within the TCC or within another agency, track the TCC's progress in responding to requests and issue interim and final responses to requests. The Open Records Officer will have 5 business days to respond to Open Record Request with up to 30 calendar days for collecting and presenting final information. These time frames are dependent on any future changes in the Right to Know law and will be the minimum timeframes, if different in the future for school districts, cities, townships, or boroughs.

### **Section 11 – Executive Director**

The Board may assign the Executive Director duties to the Tax Collector Officer. Subject to these bylaws, the position shall have the following powers and duties:

1. Gather information relevant to Board decision, present the findings to the Board and make recommendations based upon these findings.
2. Recommendation of the compensation of the Executive Director [or any other employee or position].
3. Set the compensation of TCC employees other than the Executive Director to the extent provided for in the budget.
4. Select other TCC employees to the extent provided for in the budget.
5. Direct actions by the Executive Director.
6. Recommendation of slate of officer nominees and other appointments.
7. Recommendation of TCC positions other than the Executive Director.
8. Recommendation of TCC expense allocation among the Taxing Authorities
9. Recommendation of employee or Tax Officer bond or theft protection insurance amounts.
10. Enter into contracts as necessary.
11. Recommendation of any contract not reserved for Board action.
12. Recommendation to amend the budget by transferring amounts budgeted in one expenditure category to another expenditure category when it is determined that the funds budgeted in the first category will not be needed.
13. Recommendation of new accounts or signature authority with respect to accounts established at any bank or other financial institution previously approved by the Board.
14. Obtain and monitor TCC insurance from the TCC insurance agent.

15. Establish the scope of the audit of the Tax Officer and TCC's financial statements performed by the TCC auditor unless the Executive Director is also the Tax Officer, in which case the oversight would revert to TCC board.
16. Assist in the development of contracts and request for proposals.
17. Under the direction of the Solicitor, ensure compliance with applicable laws and regulations.
18. Coordinate the transition from the former tax collectors to the Tax Officer including, but not limited to, meeting the requirements imposed on the TCC by Act 32 of 2008.
19. Monitor TCC finances and ensure TCC funds are being spent as delineated in the budget.
20. Calculation and presentation of TCC expense allocation among the Taxing Authorities
21. Recommendation of amendments to the tax collection agreement that do not materially favor one taxing authority over another.
22. Recommendation of the Department of Revenue Information Exchange Agreement.
23. Adoption of regulations, policies and procedures for tax administration unless the Executive Director is also the Tax Officer, in which case the oversight would revert to TCC board.
24. Oversee the Tax Appeal Board's operations unless the Executive Director is also the Tax Officer, in which case the oversight would revert to TCC board.
25. Coordinate the TCC involvement in the DCED mediation process as necessary or appropriate.
26. Furnish all information required by the DCED for the DCED tax register.
27. Manage all other aspects of the daily operations of the TCC.
28. Defend the TCC in all courts and respond to legal claims, inquires and complaints.
29. Assume duties of the Open Records Officer.

## **Article III – Notice**

### **Section 1 – Required Notices**

The TCC shall give notice to all voting and nonvoting delegates, to the taxing authorities, and to the officers of all meetings of the Board. The TCC shall give such notices at least 5 business days in advance of any regular or special Board meeting. If a delegate is unable to be present, either in person or via electronic means, at a Board meeting, it is the responsibility of the delegate to advise the taxing authority's alternate delegates. The TCC shall give notice to all committee members of all meetings of committees of the Board. The TCC shall give such notice at least 24 hours in advance of any regular or special committee meeting. Any person shall have the right to waive required notice. A meeting notice shall at minimum specify the date, time and address of the meeting. For a public meeting, the Secretary shall also give public notice of the meeting in accordance with the Pennsylvania Sunshine Act.

## **Section 2 – Manner of Giving Notice to Delegates, Officers or Committee Members**

Any notice or document required to be given to a delegate, officer or committee members shall be given to the person either by hand delivery, or by sending a copy thereof as follows:

- a) Written notice may be given by facsimile transmission, e-mail or other communications supplied by the person to the Board for the purpose of notice. Notice given in this manner shall be deemed given to the person when confirmed by a matching transmission receipt from a facsimile or a matching read receipt from the email recipient.
- b) Alternatively, notice of a meeting required to be given to a delegate, officer or committee member may be given by telephone. Notice given in the manner shall be deemed to be given to the person when a telephone conversation occurs with the person, or when a voice mail is left on a recording at a telephone number supplied by the person to the Board for the purpose of notice.

## **Section 3 – Manner of Giving Notice to Taxing Authorities**

Any notice or document required to be given directly to a Taxing Authority shall be given either by hand delivery, or by sending a copy thereof as follows:

- a) Written notice may be given by first class or express mail, postage prepaid or other courier service with charges prepaid, to the taxing authority postal address either supplied to the Board by the Taxing Authority or appearing on the Taxing Authority website which has been updated in the past year. Notice given in this manner shall be deemed given to the Taxing Authority when hand delivered or deposited in the U.S. mail or with a courier service for delivery to the Taxing Authority.
- b) Alternatively, written notice may be given by facsimile transmission, e-mail or other electronic communication to the Taxing Authority facsimile number or address for e-mail or other communication supplied to the Board by such Taxing Authority or appearing on the Taxing Authority website which has been updated in the past year. Notice given in this manner shall be deemed given to the Taxing Authority when confirmed by a matching transmission receipt from a facsimile or a matching read receipt from the email recipient.

## **Section 4 – Manner of Giving Notice to DCED**

Any notice or document required to be given to DCED may be given by first class or express mail, postage prepaid, or other courier service with charges prepaid, to DCED's official address. Notice may also be given to DCED in any other manner established by DCED. Notice shall be deemed given to DCED when deposited in the U.S. mail or with a courier service for delivery to DCED.

## **Article IV – Committees**

### **Section 1 – Committees**

The Board may designate committees as needed. The members of such committees shall be appointed by the Chairperson, subject to the approval of the Board. Standing committees include: Bylaws, Administration, Finance, and Nomination.

### **Section 2 – Committee Meetings**

Committee meetings shall be held on dates and at times established by the respective committee. Special committee meetings shall be called upon request received from any officer or committee member and upon approval of the Chair of the committee.

### **Section 3 – Quorum and Voting**

Quorum of a committee shall be established by the presence of a majority of all committee members. Except as otherwise provide by these bylaws, all action taken by a committee shall be by majority vote of all committee members present.

### **Section 4 – Committee Powers and Duties**

Subject to these bylaws, any committee appointed by the Board shall have and may exercise all powers and authority granted by resolution of the Board.

### **Section 5 – Coordination**

The various committees shall coordinate their activities. Any recommendations, which shall require the expenditure of funds not provided in the budget shall first be transmitted in writing to the [Management Committee for its consideration and recommendation to the Board][Board].

### **Section 6 – Advisory**

The Executive Director shall serve as an Advisory Member of each committee but shall not have any vote on any committee action.

### **Section 7 – Executive Committee**

The Board shall appoint an Executive Committee that shall consist of the Board Chairperson, Vice-Chairperson, and five (5) additional voting delegates appointed by the Board. The purpose of the Management Committee is to assist in the oversight of TCC management.

## **Article V – Finances**

### **Section 1 – Fiscal Year**

The TCC fiscal year shall begin on January 1 and end on December 31.

### **Section 2 – The Budget**

The proposed budget for the operation of the TCC shall be distributed by the Chairperson to the delegates and taxing authorities at least thirty (30) days prior to meeting scheduled for the adoption of the Budget. If no budget is adopted at that meeting, the Board shall set another meeting with ten (10) days of the annual organizational meeting for the purpose of adopting a budget. A budget for the forthcoming fiscal year shall be adopted fifteen (15) days before the end of the current TCC fiscal year. A copy of the budget shall be transmitted to each delegate, officer, committee member and Taxing Authority within ten (10) days of its adoption.

### **Section 3 – Allocation of Costs**

The net expenses of the TCC shall be allocated among the taxing authorities for which the TCC collects taxes. All such expenses shall be weighted in direct proportion to the income tax revenues collected in each participating taxing authority based upon the TCC's most recent annual audit report.

### **Section 4 – Bonds**

In addition to the bonds for the Tax Officer, Treasurer and others, the Board may require a bond in an appropriate amount set by the Board which cost shall be assumed by the Board for each person with signature authority on any of the accounts of the TCC.

### **Section 5 – Purchasing Policy**

Three (3) phone bids are required for amounts over \$4,000 and under \$10,000. Sealed bids are required for amounts over \$10,000. All other purchases under \$4,000 and included in the budget do not need Board approval. These limits are subject to change to meet the lowest levels required of school districts, cities, boroughs, or townships - if different.

### **Section 6 – Check Writing Policy**

Six (6) TCC members will be listed for check signing authorization. Two (2) signatures are necessary on all checks.

## **Article VI – Miscellaneous**

### **Section 1 – Adding a Taxing Authority**

If, after June 30, 2009, a taxing authority imposes an income tax for the first time, the taxing authority shall provide all documentation necessary for the collection of taxes to the TCC as

determined by the TCC. Once the TCC confirms the taxing authority has provided the documentation necessary for the collection of taxes, the taxing authority's delegate may elect to participate on the Board as a voting delegate in accordance with these bylaws.

## **Section 2 – Dissolution of the Taxing Collection Committee (TCC)**

The Pennsylvania Department of Community and Economic Development (DCED) is charged, under Section 5050 (M)(3)(III) of the Act 32 law to handle the dissolution of a TCC:

“The Department shall promulgate appropriate regulations governing the establishment of a new county tax collection committee necessitated by the action of political subdivisions under this paragraph in withdrawing from a tax collection committee established pursuant to this subsection. Among other things, such regulations shall provide for voting rights, quorum requirements, meeting agendas, bylaw requirements and other items as provided for in this section and other parts of this act dealing with the initial establishment of tax collection committees, to the extent warranted, and shall establish the time frame and schedule within which any and all actions necessary to establish such a new tax collection committee are to be effectuated to ensure a timely and efficient transfer of tax collection and governance responsibilities.”

All financial accounts, assets, debts and all other property of the TCC shall be handled in accordance to DCED directives.

## **Section 3 – Tax Appeal Board**

The Tax Appeal Board or the Joint Tax Appeal Board shall hear the appeals of a determination of the Tax Officer relating to the assessment, collection, refund, withholding, remittance or distribution of income taxes. An appeal may be filed by a taxpayer, employer, political subdivision or another tax collection district. All Tax Appeal Board members shall be voting delegates. The Tax Appeal Board shall be comprised of three (3) regular members and two (2) alternate members appointed by the Board. A panel of three (3) members shall hear and decide each appeal. If a regular member is unavailable to participate in the appeal, one of the alternate members shall participate in place of the regular member. The members of the Tax Appeal Board shall not be the Tax Officer or an employee, agent, advisor or consultant of the Tax Officer of the TCC or any other TCC that is a member of the Joint Tax Appeal Board. The TCC may join with other tax collection committees to form a Joint Tax Appeal Board. All appeals shall be conducted in a manner consistent with 53 Pa. C.S. § 8431 *et seq.* A member of the Tax Appeal Board may be removed by the Board at any time, with or without cause. The Tax Appeal Board may consult with the TCC Solicitor regarding any legal issues that may arise.

#### **Section 4 – Amending the Bylaws**

The Board shall provide a copy of each proposed amendment to all delegates and taxing authorities thirty (30) business days before the Board meeting at which it will be presented for adoption.

#### **Section 5 – Gender**

All references to the male and use of the male pronoun in these bylaws shall be considered to be references to the female and use of the female pronoun where applicable.