



# **CITY OF PITTSBURGH**

## **PAYROLL TAX**

### **REGULATIONS**

Issued Pursuant to the  
City of Pittsburgh  
City Code, Title II  
Article VII, Chapter 258

Effective January 1, 2017

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# PAYROLL TAX REGULATIONS

## ARTICLE I GENERAL PROVISIONS

### SECTION 101 – DEFINITIONS

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

**ASSOCIATION** – Partnership, limited partnership, or any other form of unincorporated business or enterprise owned or operated by two or more persons.

**BUSINESS** – activity, enterprise, profession, trade or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in, with the object of gain, benefit or advantages, whether direct or indirect, to the taxpayer or to another or others. The term shall include subsidiary or independent entities which conduct operations for the benefit of others and at no profit to themselves, nonprofit businesses, and trade associations. A person shall be deemed to be conducting business within the City if one engages, hires, employs or contracts with one or more individuals as employees or is self-employed and, in addition, does at least one of the following: (1) maintains a fixed place of business within the City; (2) owns or leases real property within the City for purposes of such business; (3) maintains a stock of tangible, personal property in the City for sale in the ordinary course of business; (4) conducts continuous solicitation within the City related to such business; or (5) utilizes the streets of the City in connection with the operation of such business, other than for the mere transportation from a site outside the City, through the City, to a destination outside of the City. (A person shall not be deemed to be engaged in business solely by reason of the receipt of income from passive investments for which no services are rendered).

**CHARITY** – a charitable organization that qualifies for tax exemption pursuant to the act of November 26, 1997 (P.L. 508, No 55), known as the “Institutions of Purely Public Charity Act”.

**CITY** – the City of Pittsburgh

**COMPENSATION** – salaries, wages, commissions, bonuses, net earnings and incentive payments, whether based on profit or otherwise, fees, tips and any other form of remuneration earned for services rendered, whether paid directly or through an agent, and whether in cash or in property or the right to receive property.

**EMPLOYEE** – any individual in the service of an employer, under an appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. In addition, for purposes of this tax, and irrespective of the common law tests for determining the existence of an independent contractor relationship, an individual performing work or service for compensation shall be deemed to be an employee of the person for whom the work or service is performed unless: (1) such individual has been and will continue to be free from control or direction over the performance of such work or service, under his/her appointment or contract of hire or apprenticeship; (2) such work or service is outside the usual course of the business of the person for which such service is performed; or, (3) such individual is customarily engaged in an independently established trade, occupation, business or profession.

**EMPLOYER** – any person conducting business activity within the City, except for a governmental entity.

**DISTRIBUTIONS** – drawing account; the owner’s account for recording any withdrawals.

**DRAWING ACCOUNT** – a temporary capital account, set up in the name of a partner or sole proprietor from which the individual can withdraw money or other assets in anticipation of profit.

**INTERNAL REVENUE CODE** – the Internal Revenue Code of 1986 (Public Law 99-514), as amended.

**NET DISTRIBUTION** – the amount of a partner’s or sole proprietor’s draws from net income which shall be reported for the Payroll Expense Tax. Taxable distributions are limited by the amount of draws or net income for that partner or sole proprietor, which ever is less. If the partner’s or sole proprietor’s draw exceeds that individual’s net profit, the excess draw is a return of capital. A return of capital is not taxable because this is a liquidation of a partner’s or sole proprietor’s assets by the partner or sole proprietor.

**PAYROLL EXPENSE** – the total compensation paid, including salaries, wages, net distributions, commissions, bonuses, stock options and other compensation to all individuals who during any tax year, perform work or render services in whole or in part in the City of Pittsburgh. Employee contributions such as, deductions resulting from employee election, whether deferred or otherwise, qualified cash or deferred arrangements, under Section 401(K) of the Internal Revenue Code (401 (K) plans) must be reported as taxable. Compensation meeting the definition of earned income would be part of the Payroll Expense Tax. The Payroll Tax is on gross payroll. Employers’ portions of federal and state payroll taxes, health insurance, pension plans, etc., are not taxable.

**PERSON** – a corporation, partnership, self-employed individual, business trust, association, estate, trust, foundation or natural person. Whenever used in any provision prescribing a fine or penalty the word “person” as applied to partnerships, shall mean the partners thereof, and as applied to corporations and unincorporated associations, shall mean the officers thereof.

**TAX YEAR** – a twelve-month period from January 1 to December 31.

**TAXPAYER** – a person, partnership, association, corporation, or other entity required hereunder to file a return of payroll expense or net distribution, or to pay a tax thereon.

**TEMPORARY SEASONAL OR ITINERANT BUSINESS** – shall mean an employer whose presence in the City is of a duration of one hundred twenty (120) days or less.

**TREASURER** – references to the Treasurer in these regulations refer to the Director and/or the Department of Finance. The Director holds principal responsibility for tax administration in the City of Pittsburgh. The Deputy Director of Finance serves as City Treasurer.

## SECTION 102 – WHO MUST FILE A RETURN

- a. The City Code, Title II, Article VII, Chapter 258, imposes a Payroll Tax on all persons that engage, hire, employ or contract with one or more individuals, as employees, to perform work or render services within the City of Pittsburgh. The Payroll Tax is computed on the employer's payroll expense and on the net earnings distribution of sole proprietors, individuals, partnerships, associations, joint ventures or other entities that perform work, provide service or make sales within the City of Pittsburgh.
- b. One hundred percent of the payroll expense is attributable to the City of Pittsburgh for employers whose employees perform work or render services exclusively in the City of Pittsburgh.
- c. One hundred percent of the net distributions are attributable to the City of Pittsburgh for person(s) who have net income from sales or services rendered exclusively in the City of Pittsburgh.
- d. For employers whose employees perform work or render services partly within and partly outside of the City of Pittsburgh, the method of computing their payroll expense attributable to the City of Pittsburgh is to use the percentage of the total number of working hours employed within the City of Pittsburgh compared to the total number of working hours employed within and outside of the City of Pittsburgh for each individual employee.
- e. Persons who have net income distributions generated from sales or services partly within the City of Pittsburgh or partly outside the City of Pittsburgh shall report on the net distributions of the sales or services within the City of Pittsburgh. Where it is impractical to determine the exact net distributed, an apportionment formula may be used. Any formula so established will be subject to review and correction by the City of Pittsburgh Finance Department. The data supporting the formula must be maintained as a part of office records for audit and review purposes. A thorough description explaining the formula shall be attached to the first return each year. The data supporting the formula shall be maintained for at least three (3) years as a part of office records for audit and review purposes.
- f. Employers who have payroll expense consisting of work done within and outside of the boundaries of the City of Pittsburgh may use a representative test period or conduct a survey based on factual data to arrive at a formula with which to calculate the percentage of payroll expense attributable to the City of Pittsburgh. Any formula so established will be subject to review and correction by the City of Pittsburgh. A thorough description explaining the formula shall be attached to the first return each year. The data supporting the formula shall be maintained for at least three (3) years as a part of office records for audit and review purposes.
- g. An employer which conducts business in the City of Pittsburgh on a temporary, seasonal or itinerant basis shall file a return and pay the tax within ten (10) days of the completion of the temporary, seasonal, or itinerant business.

## **ARTICLE II IMPOSITION OF TAX**

### **SECTION 201 – LEVY AND RATE**

The tax levied pursuant to the City Code, Title II, Article VII, Chapter 258 is known as the Payroll Expense Tax. The rate of fifty-five hundredths of a percent (.55% or .0055) of payroll expense generated as a result of an employer conducting business within the City of Pittsburgh must be paid.

### **SECTION 202 – COMPUTATION OF TAX**

- a. The Payroll Tax is a tax that is levied on employers. This tax is separate and distinct from the earned income tax withheld from employees. Under no circumstance should the Payroll Tax be deducted from the employees' wages.
- b. For purposes of computation of the tax, the payroll amount attributable to the City of Pittsburgh shall be determined by applying an apportionment factor to total payroll expense based on that portion of payroll which the total number of days an employee, partner, member, shareholder or other individual works within the City of Pittsburgh bears to the total number of days such employee or person works both within and outside the City of Pittsburgh.
- c. Tax Base – The tax shall be paid quarterly and the tax for each quarter shall be computed on the payroll expense of the current quarter attributable to the City of Pittsburgh.
- d. An employer which conducts business in the City of Pittsburgh on a temporary, seasonal or itinerant basis shall calculate the tax on the total compensation earned while in the City of Pittsburgh.
- e. Discontinuing business – Every person who ceases to carry on a business during any tax quarter after having paid the payroll tax for the entire quarter shall, upon making proper application on a form obtained from the Treasurer, be entitled to receive a prorated refund of the tax paid based upon the period of time he was not in business during the tax quarter. In the event that a person who discontinues business during any tax quarter does so before payment of the tax becomes due for such tax quarter, said person may apportion the tax and pay an amount to be computed by multiplying the payroll expense for the preceding tax quarter by a fraction whose numerator shall be the number of days such person was in business during the current tax quarter and whose denominator shall be the total number of days in the current quarter. The final return shall be due 10 days after the discontinuation of business.
- f. A charitable organization, as defined above, shall calculate the tax that would otherwise be attributable to the City of Pittsburgh and file a return, but shall only pay the tax on that portion of its payroll expense attributable to business activity for which a tax may be imposed pursuant to Section 511 of the Internal Revenue Code. If the charity has purchased or is operating branches, affiliates, subsidiaries or other business entities that do not independently meet the standards of the "Institutions of Purely Public Charity Act", the tax shall be paid on the payroll attributable to such for-profit branches, affiliates or subsidiaries, whether or not the employees are leased or placed under the auspices of the charity's umbrella or parent organization.

**ARTICLE III**  
**EMPLOYER'S RESPONSIBILITY**

**SECTION 301 – PAYROLL TAX LEVIED ON EMPLOYERS**

- a. Every employer not registered with the City of Pittsburgh shall, within 15 days, register with the Treasurer the employer's name, address and such other information as the Treasurer may require. The first return for a new business is calculated on the payroll expense for the portion of the quarter it was in business.
- b. The Payroll Tax is a tax that is levied on employers. Under no circumstance may the Payroll Tax be deducted from the employees' wages.
- c. It may be necessary to include 1099's issued to individuals in the company's calculations of the Payroll Tax. See "Employee" definition.
- d. It shall be the employer's responsibility, upon request from the City of Pittsburgh, to provide a list of sub-contractors which includes their name, address, Federal Identification Number (FIN), contact person and their phone number.

**FOR THE YEARS 2005-2015 THE PAYROLL TAX FOR THE FIRST QUARTER IS DUE FEBRUARY 28 BASED ON PAYROLL EXPENSE IN OCTOBER, NOVEMBER AND DECEMBER OF PRIOR YEAR.**

**EFFECTIVE 2016 THE PAYROLL TAX FOR THE FIRST QUARTER IS DUE MAY 31 BASED ON PAYROLL EXPENSE IN JANUARY, FEBRUARY, AND MARCH OF THAT YEAR.**

- e. The Payroll Tax is to be paid as follows:  
  
The first quarterly return, which is due May 31 of the current year, shall be filed and the tax shall be paid based on the amount of payroll expense during the months of January, February, and March of the current year; the second quarterly return, which is due August 31 of the current year, shall be filed and the tax shall be paid based on the amount of payroll expense during the months of April, May, and June of the current year; the third quarterly return, which is due November 30 of the current year, shall be filed and the tax shall be paid based on the amount of payroll expense during the months of July, August, and September of the current year; the fourth quarterly return, which is due February 28 of the succeeding year, shall be filed and the tax shall be paid based on the amount of payroll during the months of October, November, and December of the current year.
- f. Any employer, who discontinues business or ceases operation before December 31 of the current tax year, shall within 10 days after discontinuing business or ceasing operation, if not already filed and paid, file the return hereinabove required and pay the tax to the Treasurer. (See example 8).
- g. If for any reason the tax is not paid when due, interest at the rate of six percent

per annum (6%) on the amount of said tax and an additional penalty of one percent (1%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected.

## **ARTICLE IV ADMINISTRATION AND ENFORCEMENT**

### **SECTION 401 – POWERS AND DUTIES OF TREASURER (DIRECTOR)**

- a. It shall be the duty of the Treasurer to collect and receive the taxes, fines, and penalties imposed by the City Code, Title II, Article VII, Chapter 258. It shall also be the duty of the Treasurer to keep a record showing the date of such receipt.
- b. The Treasurer is charged with the administration and enforcement of the provisions of the City Code, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of the City Code, including provisions for the reexamination and corrections of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of the City Code.
- c. The Treasurer is authorized to issue a ruling upon written request of a taxpayer.

### **SECTION 402 – EXAMINATION OF BOOKS AND RECORDS OF TAXPAYERS AND EMPLOYERS**

- a. Agents designated by the Treasurer are hereby authorized to examine the books, papers and records of any employer or supposed employer, or of any taxpayer or supposed taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every employer or supposed employer, and every taxpayer or supposed taxpayer, is hereby directed and required to give to the Treasurer, or to any agent designated by him/her, the means, facilities and opportunity for such examinations and investigations, as are hereby authorized.
- b. If records are not available in the City of Pittsburgh to support the returns which were filed or which should have been filed, the taxpayer will be required to make them available to the Treasurer either by producing them in a City of Pittsburgh location or by paying for the expenses incurred by the Treasurer in traveling to the place where the records are regularly kept.
- c. Any information gained by the Treasurer, by designated agents, or by any other official or agent of the City of Pittsburgh, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by the City Code, shall be confidential except for official purposes and shall not be released except in accordance with a proper judicial order, or as otherwise provided by law.

### **SECTION 403 – RECORDS TO BE KEPT BY THE TAXPAYER**

Taxpayers and employers liable for the Payroll Tax are required to keep such records as will enable the filing of true and accurate returns of the tax and such records shall be preserved for a period of not less than three (3) years from the filing date or due date



whichever is later in order to enable the Treasurer or any agent designated by him to verify the correctness of the declarations or returns filed.

## **SECTION 404 – AUDITS**

If, as a result of an examination conducted by the Treasurer, a return is found to be incorrect, the Treasurer is authorized to assess and collect any underpayments of the Payroll Tax. If no return has been filed and a tax is found to be due, the tax actually due may be assessed and collected with or without the formality of obtaining a return from the taxpayer. Deficiency assessments (i.e., where taxpayer has filed a return but is found to owe additional tax) shall include taxes for up to three (3) years prior to the date when the deficiency is assessed. Where no return was filed, there shall be no limit to the period of assessment.

## **ARTICLE V**

### **SUITS FOR TAX COLLECTIONS, VIOLATIONS, FINES, INTEREST & PENALTIES**

#### **SECTION 501 – REMEDIES NOT MUTUALLY EXCLUSIVE**

The remedies provided in Section 502 or Section 505 are not mutually exclusive. The utilization by the Treasurer of one remedy does not preclude utilization of the other. Moreover, use of either or both of the remedies provided in these Sections does not preclude the use by the City of Pittsburgh of any other legal or administrative procedure which can bring about compliance by the taxpayer with the provisions of Chapter 258 of the Pittsburgh Code and these regulations.

#### **SECTION 502 – SUITS FOR RECOVERY OF UNPAID TAXES**

The Treasurer may sue in the name of the City of Pittsburgh, in law or in equity, for the recovery of those taxes due and unpaid under the provisions of the Payroll Tax, to compel the production of records or to enforce any other provisions of the law.

#### **SECTION 503 - LIMITATIONS**

- a. The following periods of limitations shall apply to suits for collection of taxes.
  1. When a return has been filed but no tax paid, any suit brought to recover the tax due and unpaid shall be filed within three (3) years after the return was due or filed, whichever is later. Where no return was filed, there shall be no limit to file suit for the collection of taxes
  2. In the case of a deficiency assessment, suit shall be filed within three (3) years after the assessment has been made.
- b. The limitations set forth in paragraph (a) shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:
  1. When no return was filed, there is no limitation.
  2. When the return is fraudulent, there is no limitation.
  3. When there is an understatement of tax liability of twenty-five (25%) or more, and not due to fraud, suit must be begun within six (6) years.

- c. A return filed before the due date is deemed to be filed on the due date.

#### **SECTION 504 – PENALTY AND INTEREST**

- a. If for any reason the Payroll Tax is not paid when due, penalty at the rate of twelve (12%) percent per annum on the amount of tax and an additional interest of one half (1/2%) percent per month for each month or fraction of a whole month during the period in which the tax remains unpaid shall be added to the tax.

- b. Penalty and Interest on Deficiency Assessment.

On any additional tax determined to be due as a result of a deficiency assessment, penalty and interest will be assessed from the day the tax should have been paid to the date of payment. Penalty and interest is calculated as described above in the applicable portion of Section 504 (a).

- c. Where suit is brought for the recovery of such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed. Once due and owing, penalty and interest become part of the tax and shall be collected as such. A person's belief that no tax is due and owing, or the failure of any person to receive or obtain the forms required for making the returns required under the City Code is not a valid defense to the imposition of penalties herein for violation. Good faith shall not be a defense to the imposition of penalty.

#### **SECTION 505 – FINES AND PENALTIES FOR VIOLATION OF APPLICABLE PROVISIONS OF TITLE TWO, PITTSBURGH CODE**

- a. Violations – No person shall:

1. Fail, neglect, or refuse to make any declaration or file a return required under the City Code.
2. Refuse to permit the Treasurer or his/her designee to examine the books, records or accounts of any business, taxable or otherwise, to determine liability.
3. Make any incomplete, false or fraudulent return or attempt to do anything to avoid full disclosure of the amount of tax due to avoid payment in whole or in part, of the Payroll Tax.
4. Divulge information, which is confidential under Chapter 201.06 of the City Code.
5. Fail to make any payment when it is due.

- b. Pursuant to Act 222, in addition to any other penalties or enforcement proceedings provided for by ordinance for the collection and enforcement of taxes:

1. Any employer who willfully makes any false or untrue statement on the employer's return shall be guilty of a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not more than two thousand dollars (\$2,000) or to a term of imprisonment of not more than two years, or both;
2. Any employer who willfully fails or refuses to file a return required by this chapter shall be guilty of a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than one thousand dollars (\$1,000) or to a term of imprisonment of not more than one year, or both; and

3. Any person who willfully fails or refuses to appear before the Treasurer or his agent in person with the employer's books, records or accounts for examination when required under the provisions of Title Two of the City Code to do so, or who willfully refuses to permit inspection of the books, records or accounts of any employer in the person's custody or control when the right to make such inspection by the Treasurer or his agent is requested, shall be guilty of a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than five hundred dollars (\$500) or to a term of imprisonment of not more than six months, or both.
4. The fines and terms of imprisonment, per Act 222, imposed under this Section shall be in addition to any other relief granted to the City of Pittsburgh of a monetary nature under the provisions of this Article.
5. Each and every day that the violation continues shall constitute a separate offense for which a fine may be imposed.

## **ARTICLE VI TAXPAYER REMEDIES**

### **SECTION 601 – TREASURER HEARINGS**

- a. Any person aggrieved by an assessment by the Treasurer shall within ninety (90) days after the date of notice of the assessment, request a Treasurer's Hearing on a form obtained from the Treasurer for that purpose. The Treasurer may, on his/her own initiative, require a taxpayer to attend a hearing.
- b. Any person who fails to request a Treasurer's Hearing within a timely manner waives the right to contest any element of the assessment, and that party's failure to challenge the Treasurer's adjudication will be construed as an admission by that party as to the propriety of the assessment.
- c. Any person may request a Treasurer's Hearing so that his tax refund request can be reviewed.

### **SECTION 602 – APPEALS**

Any person aggrieved by the decision of the Treasurer, following a hearing, shall have the right to make an appeal in accordance with the Taxpayers Bill of Rights Act. Any appeal must be commenced within thirty (30) days of the date of the notice of the Treasurer's decision. If no such appeal is timely filed, the aggrieved party waives his right to contest any element of the Treasurer's adjudication, and that party's failure to challenge the same will be construed as an admission by that party as to the propriety of the Treasurer's decision. No hearing or 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.

### **SECTION 603 – PAYMENT UNDER PROTEST**

The Treasurer will accept payments of disputed tax amounts under protest pending appeals; however, any request for refund of such monies must be filed in accordance with Section 604.

## **SECTION 604 – REFUNDS**

- a. A taxpayer who has overpaid the Payroll Tax, or who believes he is not liable for the Payroll Tax may file a written request on an amended tax return (ET-1) with the Department of Finance for a refund or a credit of the tax. A request for refund or a credit shall be made within three (3) years of the due date for filing the report or one (1) year after actual payment of the tax, whichever is later. If no report is required, the request shall be made within three (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.
- b. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for a refund shall be filed with the Department of Finance within one (1) year of the date of the payment.
- c. Erroneous Refund Recovery – The Treasurer may sue for recovery of an erroneous refund provided such suit is begun two years after making such refund, except that the suit may be brought within five years if any part of the refund was induced by fraud or misrepresentation of material fact.

## **SECTION 605 – SAVINGS CLAUSE AND SEVERABILITY**

If a final decision of a court of competent jurisdiction holds any provision of these regulations, or the application of any provision to any circumstances, to be illegal or unconstitutional, the other provisions in these regulations, or the application of such provision to other circumstances, shall remain in full force and effect. The intent of the Treasurer is that the provisions of these regulations shall be severable and that they would have been adopted if any such illegal or unconstitutional provisions had not been included herein.

## **SECTION 606 – TAXPAYER DISCLOSURE STATEMENT**

A copy of the Taxpayer Bill of Rights can be requested in writing at the address below or downloaded at [www.city.pittsburgh.pa.us/finance](http://www.city.pittsburgh.pa.us/finance)

TREASURER, CITY OF PITTSBURGH  
AUDIT SECTION  
414 GRANT ST RM 206  
PITTSBURGH PA 15219-2476