

SCHOOL INCOME TAX REGULATIONS

ARTICLE I GENERAL PROVISIONS

Section 101. Definitions.

The following words and phrases, when used in the Enabling Act and the implementing Ordinance of City Council, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "Board." The Board of Education of the School District of Philadelphia.
- (b) "Collector." The Commissioner of School Revenue of the School District of Philadelphia, also known as the Revenue Commissioner of the City of Philadelphia.¹
- (c) "He/Him/His" is the generic use of these words and does not pertain to a particular gender.²
- (d) "Net Income." The net taxable income of any person subject to the provisions of this tax shall be determined after deduction for all allocable and reasonable costs and expenses paid in the production of income. Such costs and expenses shall not include any taxes based upon income.
- (e) "Person." A natural person who is beneficially entitled to income. A corporation is not included within this definition.³
- (f) "Tax Year." Shall mean the twelve-month period from January 1 to December 31.
- (g) "Resident." Any person who is domiciled in the School District of Philadelphia on or after December 1, 1967.
- (h) "Substantial Owner of a Trust." Any person who, as grantor, retains substantial dominion and control over the trust property or income. "Control" includes the power of revocation.

¹ Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

² Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

³ Amended by Regulations filed with the Department of Records on November 13, 2008 (effective December 15, 2008).

ARTICLE II IMPOSITION AND RATE OF TAX

Section 201. Tax Base.⁴

A tax at the rate of two percent (2%) for all tax years beginning before 1976 and at the rate of four and five-sixteenths ($4\frac{5}{16}\%$) percent after 1976, and at the rate of four and ninety-six-one hundredths percent (4.96%) beginning in 1983 for general school purposes is imposed on residents of the School District of Philadelphia upon the net income received, credited or reinvested from the ownership, sale or other disposition of real property and tangible and intangible personal property.

Section 202. Persons Subject to Tax.⁵

Any person residing in the School District of Philadelphia for a full tax year or for a period less than a full tax year, shall be liable for the tax on income received, or credited to him, including income that is reinvested to him during such year or period of residency.

This list of taxpayers shall include, but is not limited to:

- (a) Individuals.
- (b) Individual limited partners of partnerships that are not themselves subject to the tax provided by Section 19-1502 of The Philadelphia Code on their pro rata share of the partnership's taxable income.
- (c) Individual shareholders of 'S' Corporations. For purposes of this section, 'S' Corporation is a corporation that elects to be treated as an 'S' Corporation for federal tax purposes.⁶
- (d) Members of unincorporated associations with respect to the taxable income of the association received by or credited to the members.
- (e) Beneficiaries of trusts and estates as to current or accumulated taxable income paid to them.
- (f) Individuals treated as substantial owners of trusts and estates.

⁴ Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

⁵ Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

⁶ Added by Regulations filed with the Department of Records after a hearing on December 14, 2006 (effective December 24, made applicable as of January 1, 2007); further amended by Regulations filed October 29, 2014 (effective December 1, 2014, made applicable January 1, 2014). Letters on subsequent items in list changed accordingly.

Section 203. Income Included in Tax Base.⁷

The following items received by any resident directly, or through an agent, whether in cash or property, shall be included as income subject to this tax. Losses in one class of income may not be used to offset income in another. (i.e., a loss from the short-term sale of property may not be offset against income from any other source.) This list of items to be included in the tax base is not all-inclusive.

- (a) **DIVIDENDS.**⁸ Except as discussed in Section 206 of these regulations, all dividends reportable to the Commonwealth of Pennsylvania for Personal Income Tax purposes are subject to this tax, exclusive of flow through items addressed elsewhere in these regulations. Dividend includes distributions from the 'S' Corporation's earned and profits (E&P) account (described under Internal Revenue Code Section 1368(C)(2)) accumulated in prior years when the 'S' Corporation was a 'C' Corporation.

Dividend distributions from entities commonly known as Mutual Funds are taxable only to the extent that the portfolio generates income each year not exempted from this tax by Section 206.

For example, a fund investing totally in U.S. bonds or Pennsylvania municipal bonds in a given year would generate dividends fully exempt from this tax for that year. If the fund's income was derived only 78% from such investments in a year, 22% of that year's dividends would be taxable.

Ordinarily, the fund would advise its investors of the percentage of its dividends for the year that are reportable to the Commonwealth, and this percentage should be used to report income under this tax as well.

In the event that a fund does not report a percentage of exemption for a given year, the dividends from such fund shall be fully taxable.

- (b) **INTEREST.** All interest received or credited, except interest specifically excluded under Section 206 of these regulations, shall be reported in the tax base.
- (c) **RENTALS.** All rentals received from the ownership of real or personal property, irrespective of situs, unless such rentals are deemed to have been received in the conduct of a business for purposes of the Philadelphia tax on net profits.

⁷ Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

⁸ Amended Regulations filed with the Department of Records October 29, 1986 (effective November 28, 1986). Further amended by Regulations filed with the Department of Records after a hearing on December 14, 2006 (effective December 24, made applicable as of January 1, 2007) and by Regulations filed October 29, 2014 (effective December 1, 2014, made applicable January 1, 2014).

The amount to be reported shall be the gross rentals received less reasonable operating costs and expenses, e.g., mortgage interest paid, repairs, depreciation, etc. The Real Estate Tax paid on the rental property shall also be allowed as a deductible cost.

- (d) **GAINS FROM SALE OF PROPERTY.** Gains to be reported as taxable under this Ordinance are those from the sale, exchange or other disposition of real estate, or of tangible, or intangible personal property, which have been owned by the resident person for a period not exceeding six months before the date of the sale, exchange or other disposition.

(1) **Cost Basis if Disposed of Other Than by Sale.**

Where property has been acquired by gift, or inheritance, the cost basis to the donee or beneficiary shall be the fair market value as of the date of transfer or distribution, or January 1, 1967, whichever is later.

(2) **Determination of Holding Period.**

A person who has received income from property acquired by gift, or inheritance, to avoid liability for this tax upon sale thereof, must show that he has held such property at least six (6) months prior to the sale. He may not "tack" on the holding period of his benefactor.

For example: "A" purchased shares of stock in 1974. He donated the stock to his son "B" on October 15, 1985. "B" sold the stock on March 1st, 1986. The holding period commenced to run as of October 15, 1985. The cost basis would be as of October 15, 1985.⁹

- (e) **ROYALTIES.** Income received as a royalty from a patent or copyright to the extent they are not subject to the Net Profits Tax.
- (f) **PUNITIVE DAMAGES.** Income received in the form of punitive damages as a result of the violation of a contractual agreement or through an action of the law.
- (g) **PRIZES AND AWARDS.** Including net gambling gains excluding Pa. Lottery net gains.
- (h) **ANNUITY POLICIES.** Income received by an annuitant under a policy of insurance shall be included in taxable income unless payable from a contract of employment as part of a retirement or pension plan. In computing the tax due, the formula used in determining the Federal tax on income from annuities will be acceptable to the School Revenue Commissioner.

⁹ Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

- (i) **INCOME FROM LIMITED PARTNERSHIPS.**¹⁰ The pro rata share of taxable income of Limited Partners from partnerships NOT otherwise subject to the Net Profits tax shall be included in the tax base with recognition of the revenue stream creating the income. Only incomes and losses of the same revenue stream from different Limited Partnerships may be offset. Any income that is excluded under Section 206 of this regulation shall be excluded from the tax base.
- (j) **INCOME FROM ‘S’ CORPORATIONS.**¹¹ For Tax Year 2007 through Tax Year 2013, the pro rata share of taxable income of shareholders from an ‘S’ Corporation shall be included in the tax base with recognition of the revenue stream creating the income. Only incomes and losses of the same revenue stream from different ‘S’ Corporations may be offset. Any income that is excluded under Section 206 of this regulation shall be excluded from the tax base.

For Tax Year 2014 and thereafter, any distribution from the ‘S’ Corporation Accumulated Adjustment Account (“AAA”) is subject to School Income Tax (“SIT”) and shall be included in the SIT base unless it is deemed attributable to previously taxed income. It is deemed attributable to previously taxed income only if such distribution is in excess of the pro rata share of income reported to the taxpayer in the current Tax Year. If so, the excess shall be excluded from the SIT base to the extent that the total pro rata share of income included by the taxpayer in the SIT base when filing Tax Years 2007 through 2013 SIT returns exceeds the total distributions made to the taxpayer in Tax Years 2007 through 2013.

Exclusions:

For Tax Years 2014 and thereafter, any excess distribution from the S-Corp’s AAA as described in this subsection and illustrated in the following examples shall be attributed to previously taxed income and shall be excluded from the SIT base. Taxpayers who claim such exclusion are required to complete and submit a worksheet/form provided by the Revenue Department. The Department shall make the worksheet/form available by posting it on the Department's website.

Illustration of How the SIT Base and the Exclusion Amount is Determined:

Mrs. Z, a resident of Philadelphia, has been a shareholder of an S-Corp since Tax Year 2010. When filing Tax Years 2010 through 2013 SIT returns, Mrs. Z properly reported her pro rata share of income and paid the tax accordingly. Mrs. Z’s pro rata share of income and distributions from the S-Corp’s AAA in Tax Years 2010 through 2013 are as follows:

¹⁰ Amended by Regulations filed with the Department of Records after a hearing on December 14, 2006 (effective December 24, 2006, made applicable as of January 1, 2007).

¹¹ Added by Regulations filed with the Department of Records after a hearing on December 14, 2006 (effective December 24, made applicable as of January 1, 2007), amended including adding second paragraph and all examples by Regulations filed October 29, 2014 (effective December 1, 2014, made applicable January 1, 2014).

Year	Income	Distribution	Income – Distribution
2010	\$40,000	\$20,000	\$20,000
2011	30,000	25,000	5,000
2012	50,000	25,000	25,000
2013	5,000	15,000	-10,000
Total	\$125,000	\$85,000	\$40,000

This means that, for Tax Years 2010 through 2013, Mrs. Z filed and paid SIT on her \$125,000 pro rata share of income while in these years she received only a total of \$85,000 in actual distributions from the S-Corp's AAA. As such, the \$40,000 excess reflects income in excess of distributions previously taxed and shall be available for exclusion from the SIT base in Tax Years 2014 and thereafter when distributions, rather than pro rata share of income, are the subject of SIT.

Example 1: Mrs. Z's Tax Year 2014 pro rata share of income and distribution from the S-Corp's AAA are \$70,000 and \$80,000 respectively. Mrs. Z's SIT base for Tax Year 2014 shall be computed as follows:

The \$80,000 distribution is more than the \$70,000 pro rata share of income, and, as such, the \$10,000 excess distribution is excluded from the 2014 SIT Tax Year base to the extent of the amount available for exclusion. Since the total amount available for exclusion is \$40,000, the \$10,000 excess distribution is excluded and only \$70,000 of the \$80,000 distribution is subject to SIT in Tax Year 2014. This also means that only \$30,000 (i.e., \$40,000-\$10,000) shall remain available for future exclusions.

Example 2: Same fact pattern as Example 1 in regard to Tax Year 2014. Mrs. Z's Tax Year 2015 pro rata share of income and distribution from the S-Corp's AAA are \$50,000 and \$40,000 respectively. Mrs. Z's SIT base for Tax Year 2015 shall be computed as follows:

Since the \$40,000 Tax Year 2015 distribution is less than the \$50,000 Tax Year 2015 pro rata share of income, the entire \$40,000 shall be included in the 2015 SIT Tax Year base. The \$30,000 shall still be available for exclusion in subsequent SIT Tax Years.

Example 3: Same fact pattern as Examples 1 and 2 in regard to Tax Years 2014 and 2015. Mrs. Z's pro rata share of income and distribution from the S-Corp's AAA in Tax Year 2016 are Zero (0) and \$30,000 respectively. Mrs. Z's SIT base for Tax Year 2016 shall be computed as follows:

Since Tax Year 2016 pro rata share of income is Zero (0), the \$30,000 Tax Year 2016 distribution may be excluded from the 2016 SIT Tax Year base to the extent of the amount that still remains available for exclusion. We know from Example 2 above that \$30,000 remains available for exclusion and, as such, the entire \$30,000 distribution shall

be excluded from the 2016 SIT Tax Year Base and therefore the 2016 Tax Year Base shall be Zero (0) (i.e., \$30,000 - \$30,000).

Beginning Tax Year 2017, all distributions from the S-Corp's AAA to Mrs. Z shall be included in the SIT base because the entire \$40,000 pro rata share of income previously taxed and available for exclusion has been used (i.e., \$10,000 in Tax Year 2014 and \$30,000 in Tax Year 2016).

Section 204. Determination of Net Income.

In arriving at net income, any person who has incurred reasonable costs and expenses in the production of the income subject to this tax may deduct such costs and expenses from the gross income. However, he may NOT deduct taxes of any nature based upon income, such as this tax, Philadelphia Wage Tax, Philadelphia Net Profits Tax, Federal Income Tax, or foreign taxes on income.

(a) Expenses Incurred in Production of Income.

For the purposes of this tax, expenses directly incurred in the production of taxable income are deductible from gross income if they are reasonable and were paid solely for the production of such taxable income.

Illustration: Personal property tax paid on property subject to this tax shall be allowed as a deductible expense, e.g., the cost of a safety deposit box, fee for preparation of the School Income Tax return, margin interest (NOT to exceed the yield of the security).¹²

(b) Losses

- (1) From Sales or Exchanges of Similar Property. A loss sustained in the sale or exchange of property, real or personal, tangible and intangible, in any one tax year, may be offset and deducted to the extent of taxable gains realized from the sale or exchange of like property within the same tax year, e.g., a person selling shares of stock in "A" corporation and "B" corporation, held less than six months, may offset a loss of \$1,500 of the stock in "B" corporation against a gain of \$1,000 of "A" corporation to the extent of \$1,000.
- (2) From Sales or Exchanges of Property Against Taxpayers' Other Net Income. Any person sustaining a loss from the sale or exchange of property, i.e., stocks and bonds, may **NOT** offset or deduct this loss under any circumstances against or from other income subject to this tax, i.e., interest on stocks, bonds, mortgages, dividends, etc.

¹² Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

- (c) A gain or income in one class of income may not be offset by a loss generated in another.

Section 205. Beneficiaries of Estates or Trusts.

- (a) In General.

Except for trust of which the person is the "substantial owner," the beneficiary of a trust or estate shall not be required to report the income therefrom until such income is received by or credited to him.

The residency of the beneficiary of the trust or estate, not that of the trust or trustee, shall determine the liability of the beneficiary for this tax. For example, the income of a trust received by a beneficiary who resides in the School District of Philadelphia is taxable to him although the trust and/or trustee may be located in Montgomery County. However, the trust and/or trustee may be located in Philadelphia, but if the beneficiary is a resident of Montgomery County, the amount paid him by the trustee would not be subject to the tax.

- (b) Nature of Trust Income.

Estates and Trusts are not taxable entities under the provisions of the School Income Tax Ordinance. However, when distributions are made to beneficiaries of Estates or Trusts, the income generating the distribution will retain the same tax character to the beneficiary as if that individual made the investment directly.¹³

If, for example, the income of a trust consisted of interest from the ownership of U.S. Savings Bonds, such income would not be taxed under this Ordinance to the trust and would, likewise, upon distribution to the beneficiary, be non-taxable income to him.

Income distributed or credited to a beneficiary of trust or estate, for purposes of this tax, shall be deemed to be earned in the tax year, whether the trust or estate had income during such year.

- (c) Substantial Owner Trusts.

Any person creating a trust, who retains substantial control over the property including the power of revocation, shall be deemed the substantial owner thereof, required to pay the subject tax on the taxable income therefrom. The Commissioner of School Revenue recognizes the definition and rules pertaining to "substantial owner trusts" provided by Sections 671-77 of the U.S. Internal Revenue Code.

Example 1. The income of a trust is made payable to "G" (grantor) who has full power to revoke the trust and/or withdraw the corpus. "G" would be required to pay the tax on all taxable income received by the trust.

¹³ Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

Example 2. Under the terms of the trust created by "G " the income is being paid to "B" during the lifetime of "B"; the principal in the trust to revert to "G" at the expiration of the trust. Held: "G" would be required to pay tax on all undistributed taxable income which has been paid into the trust principal. "B" would pay on the income distributed or credited to him.

Example 3. "G" creates a trust retaining the following powers: (1) to specify the beneficiary of the income; (2) to designate who at some future date shall receive the principal; (3) as a non-trustee to direct the types of investment or to vote stock where such stock is closely held.

Under the first of these powers, "G" would be taxable on the income, while under the second and third, "G" would pay on all the undistributed taxable receipts which have been paid into the trust principal.

(d) Trusts on Fiscal Year Basis.

Net income paid or credited to a beneficiary (required to report such income on a calendar year basis), by a trust or estate maintaining its books and records for Federal Income Tax purposes on a fiscal year basis, shall mean income paid, credited, or required to be distributed as determined for the Federal tax reporting year of the trust ending with (or within), the beneficiary's tax year. If the trustee has not established a Federal tax reporting year, then a calendar year basis must be used.

(e) Real Estate Investment Trusts.

Where the activities of a Real Estate Investment Trust subject the trust to payment of the City's Net Profits Tax, the income therefrom paid to participants in the form of dividends would be exempt from the School Income Tax. However, if all or any portion of the Trust's activities are excludable from the Net Profits Tax, the participants will be required to pay the School Income Tax to that extent. Where the dividend is considered to be return of capital for Federal Tax purpose, it will be considered to be return of capital for purposes of this tax and is therefore not taxable.

(f) Fixed Investment Trust (Pennsylvania only).

Participation Units or Certificate Holders that are invested only in specified tax exempt obligations of the Commonwealth of Pennsylvania or any political subdivisions of the Commonwealth are exempt from the School Income Tax.¹⁴

Section 206. Exclusions from Income.¹⁵

¹⁴ Added by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

¹⁵ Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

The following items of income received, credited or that income which is reinvested to a person under this Ordinance shall be excluded from the tax base:

(a) Interest on Public Loans and Bonds Issued by:

- (1) The Commonwealth of Pennsylvania
- (2) Political subdivisions of this Commonwealth
- (3) Municipal Authorities incorporated in Pennsylvania
- (4) United States Government

Interest on bonds issued by a government-sponsored agency will be considered taxable unless the Act creating the agency specifically exempts such bonds from all state and local taxes.

For purposes of this section, SEPTA, a regional authority, shall be considered a "municipal authority."

(b) Interest and Dividends.¹⁶

(1) Interest and dividends on savings deposits, savings certificates, Certificates of Deposit, checking accounts and Money Market accounts issued by a:

- Private Bank
- Building & Loan Association
- Savings & Loan Association
- Credit Union
- Savings Bank
- Bank, Bank & Trust Co., or Trust Company

The savings certificate (upon which the holder receives or is credited with interest) must meet these tests:

- (a) Be originally issuable to an individual or nonprofit organization; or
- (b) be nonnegotiable.

¹⁶ Amended Regulations filed with the Department of Records October 29, 1986 (effective November 28, 1986).

If, for example, a savings certificate was initially issued to a corporation, and then purchased by an individual from the corporation, the interest paid or credited to the individual would be subject to this tax.

Interest on Certificates of Deposit purchased through an investment broker is taxable.

(2) Dividends paid by a National Bank to holders of common stock.

(3) Income generated from Funds and Trusts which invest in governmental securities shall be considered exempt from this tax in the same proportion as the fund or trust is invested in securities which generate income which would otherwise be exempt from this tax. (e.g., A fund or trust invests in multiple state municipal bonds generating \$1000 in distributable income. Pennsylvania Bonds represent .0278 of the holdings of the fund or trust. \$27.80 would not be subject to this tax.) Any fund not reporting to the investor its percentage of Pennsylvania tax free investments for a particular year shall be considered to be fully invested in taxable instruments for that year.¹⁷

(c) Gains from the Sale of Property Held More Than Six Months.

If a gain is realized by the owner of real or personal property upon the sale, exchange, or other disposition thereof, and has been held by the person in excess of six months before disposition of the property, the subject tax shall not be paid on the gain.

Distributions or investment trusts of the management type determined to be capital gain distributions for Federal Tax purposes will be treated as long-term capital gain and will not be subject to this tax. Distributions determined to be income distributions for Federal Tax purposes will be treated as fully taxable to the taxpayer regardless of the source of the income to the investment company.

(d) Income from Operation of a Business.

Any net income received by a person from the conduct of a business, profession, trade or enterprise, which subjects such person to the payment of the Net Profits Tax imposed by the City of Philadelphia, shall not be reported as income for purposes of the School Income Tax.

(e) Old Age, Retirement and Pension Payments.

Payments of this nature, to be exempt from this tax, must be made to persons who have retired from service by reaching a specific age or period of employment.

(f) Sick and Disability Benefits.

¹⁷ Added by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

These payments must be periodic and paid to an individual under a sickness or disability plan.

- (g) Benefits Received Under Workmen's Compensation and Unemployment Compensation Laws.

Any compensation received by an employee as a result of injuries sustained in the course of employment, and compensation received by a person during periods of unemployment, are not to be reported as taxable income.

- (h) Active Military Service Pay.

Salaries, wages or other compensation paid by the United States to any person for active service in its Army, Navy or Air Force, shall be excluded from this tax.

- (i) Bonuses for Active Military Service Paid by Governmental Units.

Any bonus or additional compensation paid to a person by the United States of America, or Commonwealth of Pennsylvania, or any other State for active service in the Army, Navy or Air Force of the United States, shall likewise be exempt from the tax.

- (j) Death Benefits.

Any employer or union paying death benefits to the beneficiary of a deceased employee or to his estate, whether payable in a lump sum or otherwise, shall be exempt.

- (k) Proceeds of Insurance Policies

- (l) Gifts and Bequests.

Whether received in cash or in property as a gift, or under a Will, or under statutes of descent and distribution, shall not be reported in the tax base.

- (m) Compensatory Damages Arising from Any Claim or Cause of Action.

Any monies received by a person because of personal injury or property damage, either by way of settlement or by the institution of legal proceedings, shall be exempt. However, any punitive damages which may be awarded under a contract or by a Court, shall be reportable as taxable income.

- (n) Individual Retirement Accounts, Tax-Deferred Annuities, Profit Sharing, Keogh Plans, etc.¹⁸

¹⁸ Added by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

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Income earned in IRA, Keogh and such plans will be excluded regardless of the investment medium used to create the income.

ARTICLE III RETURNS AND PAYMENT OF TAX

Section 301. Who Must File a Return.

- (a) Every person who receives income from the ownership, sale, lease or other disposition of real property, or tangible or intangible personal property as defined in Section 203;
- (b) Every person who receives or is credited with income as beneficiary of an estate or trust;
- (c) Every person who is deemed to be the substantial owner of a trust or estate and receives or is credited with income from the trust or estate.

Section 302. Filing of Returns.

- (a) In general.
 - (1) All returns due under this Ordinance shall be filed with the Department of Revenue of the City of Philadelphia in its capacity as agent for the School District of this City.
 - (2) The return shall set forth the taxpayer's name, address, social security number and such other information as may be required by the Collector of this tax for the purpose of arriving at the tax due.
- (b) Joint Return of Husband and Wife.

Where husband and wife receive taxable income from property owned individually, or as beneficiary of an estate or trust, and/or from property owned by them as tenants by the entireties, an option to file one return may be elected, showing the combined income of both. The tax liability of both husband and wife, where a combined form is used, is the same as would result from the filing of individual returns by each. For example, losses from property owned separately by either spouse may not offset against income received or credited to the other.

Where the joint return is elected, the return must bear the signature of both spouses, making them jointly and severally liable for amounts due thereon.

- (c) Signature and Certification of Return.

The taxpayer shall sign the return. Any willful, false or misleading statement contained in the return shall subject the taxpayer to the penalties provided in the Ordinance. If the taxpayer, through illness or absence from the City, is unable to make the certification and file the return, it may be certified and filed by an authorized agent. In such case, the return should be accompanied by a letter showing the reason for the taxpayer's inability to act personally. Power of Attorney, showing the agent's authority to certify to the

correctness of the return, should be submitted. If the taxpayer is deceased, the return must be made and filed by his legal representative.

If husband and wife have elected to file a joint return, it should be signed by both.

(d) Information Return by Trustee, etc.¹⁹

Every trustee, executor, administrator or other fiduciary of a trust or estate shall, annually on or before March 31, file with the Commissioner of Revenue, a form setting forth the name, address and social security number of any resident beneficiary, and the amount of income distributed or credited to him during the preceding year.

A copy of the appropriate Federal Form 1099 will suffice.

Section 303. Period Covered by Return.

The return shall cover the period between January 1 and December 31 of the year preceding the due date of the return.

Persons who maintain their records on a fiscal year basis and have filed on such basis with the Internal Revenue Service are **NOT** permitted to file the return of this tax with the Department of Revenue on a fiscal year basis.

Section 304. Due Date of Return and Payment of Tax.²⁰

Every person subject to the provisions of this Ordinance shall, on or before April 15 of each year, prepare and file a return on a form furnished by or obtainable from the Department of Revenue, setting forth the taxable income received, credited or reinvested during the preceding calendar year. At the time of filing such return, the person shall pay the total amount of tax shown to be due on the return.

¹⁹ Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

²⁰ Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

ARTICLE IV DUTIES AND POWERS OF COLLECTOR OF SCHOOL REVENUE

Section 401. Collect and Receive Tax.

It shall be the duty of the Revenue Commissioner of the City, as agent for the School District of Philadelphia, to collect and receive the tax imposed by this ordinance.

Section 402. Enforcement.

The City Revenue Commissioner, in his capacity as agent for the School District, is charged with the enforcement of the provisions of this Ordinance.

He is authorized and empowered to examine, under oath, any person concerning any income which was or should have been returned for taxation, and for this purpose may compel the production of books and records, and the attendance of all persons before him, whom he believes to have knowledge of such income.

Section 403. Examination of Books and Records of Taxpayers.

The Collector, or his duly authorized agent or employee, is empowered to examine the books and records of every person who is a resident of the School District of Philadelphia, in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax imposed by this Ordinance. Every taxpayer is directed and required to give to the Collector or his duly authorized agent, or any other duly authorized representative of the Board, the means, facilities and opportunity for such examinations and investigations.

Any information obtained as a result of an examination of the books and records of a taxpayer shall be confidential, except for official purposes, and except in accordance with proper judicial order.

Section 404. Collect Deficiencies.

(a) Assessment and Collection of Underpayments of Tax.

If a return is found to be incorrect, the Collector is authorized to assess and collect any underpayment of tax owing by any taxpayer. If no return has been filed and a tax is found to be owing, the tax due may be assessed and collected with or without the formality of obtaining a return from the taxpayer.

(b) Refunds.²¹

²¹ Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

Should the taxpayer discover that an overpayment of tax has been made, an application for refund may be obtained from the Revenue Department. The application must be filed within three years of the date of payment or the due date, whichever is later.

ARTICLE V INTEREST AND PENALTY

Section 501. Interest.

Any person failing to pay the tax imposed by this Ordinance by the due date shall be required to pay interest at the rate of one-half (1/2) of one (1%) per cent per month or a fraction thereof on the tax due until paid.

Section 502. Penalty.²²

Any person who fails to pay the tax imposed by this Ordinance by the due date shall be liable for a penalty of one (1%) per cent per month or fraction thereof on such tax until paid for debts outstanding prior to June 30, 1987. Subsequent to June 30, 1987, the penalty will be calculated in accordance with the following chart:

PENALTY ILLUSTRATION. Listed below is an I&P Chart for returns filed after 4/15/88.

Month Returns Filed After Due Date Int. Pen. Comb. I&P Cum. I&P

1	04/16/88 thru 05/15/88	1/2%	1%	1-1/2%	1-1/2%
2	05/16/88 thru 06/15/88	1/2%	1%	1-1/2%	3%
3	06/16/88 thru 07/15/88	1/2%	1%	1-1/2%	4-1/2%
4	07/16/88 thru 08/15/88	1/2%	2%	2-1/2%	7%
5	08/16/88 thru 09/15/88	1/2%	2%	2-1/2%	9-1/2%
6	09/16/88 thru 10/15/88	1/2%	2%	2-1/2%	12%
7	10/16/88 thru 11/15/88	1/2%	3%	3-1/2%	15-1/2%
8	11/16/88 thru 12/15/88	1/2%	3%	3-1/2%	19%
9	12/16/88 thru 01/15/89	1/2%	3%	3-1/2%	22-1/2%
10	01/16/89 thru 02/15/89	1/2%	4%	4-1/2%	27%
11	02/16/89 thru 03/15/89	1/2%	4%	4-1/2%	31-1/2%
12	03/16/89 thru 40/15/89	1/2%	4%	4-1/2%	36%

Thereafter, for each additional month or fraction thereof is added 1-1/4% for penalty and 1/2% for interest to the 36%.

Section 503. Abatement or Waiver of Interest and Penalties.

Where the Collector has imposed interest and penalties for late filing of a return and payment of the tax, the taxpayer may petition the Tax Review Board of the City of Philadelphia to waive or abate such interest and/or penalties. (See Article VIII, Section 801 of these Regulations for specific information as to procedure.)

²² Amended by Regulations filed with the Department of Records after a hearing on March 22, 1989 (effective April 3, 1989).

ARTICLE VI
COLLECTION OF UNPAID TAXES

Section 601. In General.

The tax imposed by this Ordinance, together with interest and penalties, shall be recoverable by the Commissioner of School Revenue as other debts of like amount are recoverable.

**ARTICLE VII
VIOLATIONS - FINES AND PENALTIES**

Section 701. Violations of Ordinance.

The violations which subject a person to the fines and penalties set forth in Section 702 hereof are:

- (1) Failure to keep or make any record, return or report;
- (2) Keep or make any false or fraudulent record, return or report;
- (3) Refuse request by the Collector for examination of books and records in order to verify the accuracy of the taxpayer's payment of the tax;
- (4) Fraudulently omit or neglect to file any return required hereunder, or to pay any tax;
- (5) Attempt, in any manner, to evade or defeat the tax or payment thereof.

Section 702. Fines and Penalties.

Any person who violates the provisions of this Ordinance shall be subject to the payment of a fine or penalty of \$300.00, or to suffer imprisonment of not more than ninety days, or both, at the discretion of the Court.

The School District is not limited, in an action to recover the fines or penalties for violation of this Ordinance, to actions of assumpsit.

ARTICLE VIII APPEAL PROCEDURE

Section 801. Appeals to Administrative Board.

Appeals from the assessing authority covering the abatement or waiver of interest or penalty, or of a compromise of the tax due, shall be filed with the Tax Review Board of the City of Philadelphia within sixty days after the date of the mailing of notice of assessments to the taxpayer or his representative. The petition shall be filed in triplicate, and shall set forth the reasons supporting the request for relief. The petitioner, if he desires, shall have the right to be heard in person, or by counsel, before the said Board. There shall be no appeal from its decision. A petition for waiver of penalty and interest will be acted upon only after the basic tax has been paid.

Section 802. Appeals to Court.

Where the Tax Review Board shall deny any petition for review of an assessment, or a petition for refund, an appeal from such denials may be made to the Court of Common Pleas within thirty (30) days after the date of the mailing of the notice of the decision by the Tax Review Board.