



2016 BUDGET BULLETIN

published by the
PENNSYLVANIA STATE ASSOCIATION OF BOROUGHS



Welcome to the 2016 Budget Bulletin

The Pennsylvania State Association of Boroughs (PSAB) is pleased to present the 2016 Budget Bulletin to assist you with your budget preparations. This publication has been produced for more than 30 years and is a joint effort of the research and education departments. This online version is enhanced with interactive hyperlinks to various state and federal resources.

PSAB provides you with timely and important material based on what is available from state and federal agencies as we go to publication. For example, some statistics like the Liquid Fuels allocation are not released until late October. As we obtain these statistics, the Budget Bulletin will be updated to reflect the new figures.

As always you will find the budget calendar, deadlines for state reporting, costs savings for purchases, PSAB's conference schedule, and other useful data. We gratefully acknowledge the following state agencies for their assistance: the Departments of Transportation, Community & Economic Development, Revenue, General Services, and the Public Retirement Commission (PERC). Additional acknowledgment goes to Ron Grutza, PSAB Regulatory Affairs Coordinator, Leslie Suhr, Managing Editor of the *Borough News Magazine* and Josh Ehrman, Training and Education Associate.

Please contact Shelley Houk, PSAB Director of Research at 800-232-7722, Ext. 1018 or by email at shouk@boroughs.org if you require assistance. You should also access PSAB's website at www.boroughs.org and click on "Training" to see the schedule for budgeting and other informative classes.

It is important to note that the Budget Bulletin is not just a resource for budget planning. It contains material that can be used throughout the year.

*Please remember that *you can search this document* by hitting "Control" (CTRL) and "F" on your keyboard and entering a search word or phrase.

Shelley A. Houk
Director of Research

E. J. Knittel
Senior Director, Education
and Sustainability

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Budget Basics and Article FAQ's About Budget Preparation

Q. How many months in advance should we begin to work on the budget?

A. Most boroughs begin work during September, but check the prior year's prep time to estimate when to start.

Q. Our police department sells copies of accident reports. Where do we show this in the budget?

A. This revenue is entered in revenue account 362.11, Sale of Copies of Accident Reports.

Q. Where do we document a grant in the budget?

A. Grants, Intergovernmental Revenue sources, should be recorded on line 350 of your financial report, and included in the budget total.

Q. How long must the preliminary budget be available for inspection?

A. It must be available for 10 calendar days, after which a "final" budget may be adopted.

Q. How should the proposed budget be advertised?

A. The borough secretary should place the ad once in a "newspaper of general circulation in the borough."

Q. Does the Sunshine Law require budget meetings to include a citizen participation/comment period?

A. Yes, the public must be able to comment. However, the borough has the authority to establish reasonable rules for citizen participation.

Q. Must the amended budget be readvertised and reinspected? When must the budget be filed with DCED?

A. The amended budget must be readvertised and reinspected, but is no longer filed with DCED.

Q. How does one adopt a final budget?

A. A motion in council, approved by a majority of the council members present, is all that is needed.

Q. Must you adopt the budget and the tax ordinance at the same meeting?

A. It is suggested that you do both at the same time. However, there are no penalties for passing the tax ordinance at another time provided it is passed no later than December 31.

Q. Must the budget be approved by the mayor?

A. No, adoption of the budget is an administrative action, not a legislative one. However, the tax ordinance does require the signature of the mayor.

Q. What happens if the mayor refuses to sign the tax ordinance?

A. According to section 3301.3(c) "When the council shall present the mayor with the annual tax ordinance referred to in section 1310 of the Borough Code, the mayor shall, within ten days of receiving the tax ordinance, approve the tax ordinance by affixing his signature thereto, or return the tax ordinance to the borough secretary with a statement setting forth his objections thereto. Council shall proceed to reconsideration thereof, at any regular, special or adjourned meeting held not later than ten days after the mayor has returned the tax ordinance to the secretary with his objections. The mayor's objections shall be entered upon the minutes of the meeting. A veto of the tax ordinance of the borough may be overridden by a vote of two-thirds of all the members of council, and thereafter such ordinance shall have full force and effect as if it had received the approval of the mayor."

Q. What happens if council doesn't pass a budget by Dec. 31?

A. The borough would not be able to make new purchases. However, customary expenses, such as payroll and utility bills, would continue to be paid.

Q. Can a budget be modified after its final adoption?

A. Yes, according to Section 1312 of the Borough Code: "The council in its reasonable discretion may, in any year, by motion, modify the budget after its final adoption."

Q. In a year following a municipal election, can a budget be changed by the new council?

A. Yes, Feb. 15 is the final deadline for amending the budget.

Q. What are the total mills allowed by law?

A. Thirty mills for General Purpose plus whatever Special Purpose Taxes are levied, e.g., 30 mills General, 5 mills Special Road Fund. The legal limits are found in Section 1302 of the Borough Code. If a borough wishes, it may, by ordinance levy a higher millage on the assessed value of land than on the assessed value of improvements. However, the total revenues collected under a split rate tax may not exceed the revenues which would have been generated by 30 mills on the total assessed value of all taxable properties.

Q. Our county was reassessed this year and we need to amend our millage rate. When do we change it?

A. The new millage rate is set at the beginning of the year in the tax ordinance and must be revenue neutral or equalized millage.

Q. Must Council adopt a balanced budget?

A. Yes, the budget must be balanced.

Q. Are we required to show a surplus from the prior year?

A. Yes, it is a part of the budget.

Q. Must you annually re-enact every Act 511 tax the borough collects?

A. No. According to the Local Tax Enabling Act, Section 4 (53 P.S. 6924.306), you need only to re-enact any Act 511 tax whose rate has been changed. If the borough is levying a tax for the first time, if it is changing the rate or repealing it then it shall be advertised once a week for three successive weeks.

Q. Can the real estate tax rate be changed during the year?

A. No, it cannot be changed.

Q. Our borough wants to enact a business privilege tax or mercantile tax on a gross receipts basis. Our solicitor told us we can't. Is this correct?

A. Yes, in *Taxpayers of Borough of West Chester v. Borough of West Chester and Borough Council* (566 A.2d 373, 1989) the Commonwealth Court ruled that only mercantile or business privilege taxes in place prior to November 30, 1988 are valid based on Section 533 of the Local Tax Reform Act (Act 145 of 1988). Another case on the same issue is *Taxpayers v. Sandy Township Supervisors* (625 A.2d 1321, Pa. Cmwlth. 1993). However, a borough can levy a flat rate business tax (*Smith v. Newton Borough, Cmwlth.* 1995).

Q. Can a borough levy a business privilege tax on lease revenue?

A. No, the Commonwealth Court decided on this issue in *Fish v. Township of Lower Merion* (98 A.3d 820 Pa Cmwlth, 2014).

Q. Can a borough levy a service charge or user charge for municipal services?

A. Yes. A borough which levies a garbage collection, water or sewer fee is already doing so; however, a borough may not charge such a high fee that it is making a profit.

Q. Must the real estate tax ordinance be enacted every year or only if there is a change?

A. The borough must enact the real estate tax ordinance every year whether or not the tax rate changes.

Q. What is the proper procedure to increase the property tax?

A. Council sets the new rate at a public meeting and then advertises a proposed property tax ordinance. In accordance with section 3301.2 (a) of the Borough Code, council must advertise the proposed ordinance no less than seven days prior to passage and no more than 60 days prior to passage. After the expiration of the advertising requirement, council holds another public meeting to vote on the ordinance.

- Q. Are the notes taken by council members while working on the budget a public record?**
- A. No. They are predecisional deliberations and exempt under section 708 (b) (10) of the Right to Know Law.
- Q. How do we calculate property taxes and millage?**
- A. A mill represents \$1.00 per \$1,000 of assessed property value. For example, a house with an assessed value of \$50,000 divided by 1000 x millage = the amount of property tax.
- Q. We are a college community and we want to charge a residential lease tax. Can we do so?**
- A. No. The PA State Supreme Court ruled in 2009 that no municipality can do so. Boroughs that did levy the tax prior to the decision are grandfathered.
- Q. We have a surplus in our water fund and we have a short fall in the General Fund. Can we transfer some of the surplus?**
- A. The Sewer Rental Act (53 PS 2232) has a provision which prevents transfer of sewer revenues from the sewer fund to the general fund.
- Q. Our borough's budget is \$25,000. Are we required to advertise a budget notice?**
- A. Section 1308 (a) of the Borough Code states that if your budget is less than \$50,000, the borough does not advertise the availability, but simply posts it in a conspicuous place in the borough.
- Q. Our borough receives Act 13 funds. Where do we post that in the Chart of Accounts?**
- A. Post under Income Account #355.09.
- Q. When will the Consumer Price Index (CPI) be announced?**
- A. The CPI is advertised in the PA Bulletin, a weekly publication. The change will be advertised in the December issue of the PA Bulletin.

Advertising Requirements

Listed below are the legal advertising requirements for the Sunshine Act and the new Borough Code (Act 37-2014).

Please note that a “newspaper of general circulation” as defined in the Newspaper Advertising Act is “a newspaper issued daily, or not less than once a week, intended for general distribution and circulation, and sold at fixed prices per copy per week, per month, or per annum, to subscribers and readers without regard to business, trade, profession or class.” <http://www.newpa.com/get-local-gov-support/local-government-law-library/index.aspx>

Sunshine Law Advertisements

Regular and Committee meetings	Publish once three days in advance of the first meeting of the year.
Special or Rescheduled Meetings [Section 1006 (1) of Borough Code]	Advertise once, no less than 24 hours in advance of meeting, and the reason for holding the special meeting must be stated in the ad.
Recessed or Reconvened Meetings	Posting only, no publication required and notice to those requesting.
Emergency Meetings	No notice for emergency meetings. Must present a clear and present danger.
Work Sessions	Technically not authorized by Sunshine Act, Borough Code or any other law. Check with borough solicitor. In 1989 Lackawanna Court of Common Pleas ruled they are illegal meetings.

Borough Code Advertising Provisions

Bids, Purchases and Contracts over \$19,400 [Section 1402 (a)]; please note this may change in January 2016 due to any changes in the Consumer Price Index in December.	Twice: 1.) Not more than 45 days prior to the date set for the opening of bids; 2.) Not fewer than 10 days prior to the date set for the opening of bids in a newspaper of general circulation or in a weekly paper once a week for two successive weeks.
Selling borough real property or personal property [Section 1201.1 (a)] or Auction	One time not fewer than 10 days prior to the date fixed for the opening of bids or public auction.
Annual Budget [Section 1307] and [Section 1308 (a)]	It must be available for 10 days public inspection prior to adoption. Budgets under \$50,000 exempt.
Civil Service Exams [Section 1181 (4)(b)]	Once at least two weeks prior to the exam.

Auditors' Financial Statements [Section 1059.1(a)]	One time within 10 days of completion of the audit and detailed report; no summarizes allowed.
Fire Prevention Code [Section 1202 (15)]	Once in a newspaper of general circulation at least one week and no more than three weeks prior to presentation to council.
Incorporation of Boroughs [Section 202 (2) (e)]	In a newspaper of general circulation and legal journal not fewer than 30 days following filing, once a week for four consecutive weeks.
Ordinances, amended or repealed [Section 3301.2 (a)]	One time in a newspaper of general circulation not fewer than seven days or more than 60 days prior to passage.
Ordinances (codification) [Section 3301.5]	Enacted as a single ordinance, advertise at least 15 days before enactment.
Property Maintenance Code Ordinance	Published in a newspaper of general circulation at least one week and no more than three weeks before <i>presented</i> to council.
Ordinance, Sewage Treatment Works Construction Outside Borough [Section 2010]	Once a week for four weeks in a newspaper of general circulation (a newspaper published daily and available for a subscription fee).
Ordinance, Transcripts in new ordinance book [Section 3301.7(a)]	Once in a newspaper of general circulation.
Public Auction [Section 1201.1 (a.1)]	Not fewer than 10 days prior to auction.
Shade Tree Commission-planting, removal or transplanting of trees [Section 2720.3; 2724.1 (b)]	Once a week for two weeks in a newspaper of general circulation prior to the meeting. The notice shall specify the streets or portion thereof affected.
Street Opening [Section 1731(b)-(c)]	At least 15 days notice in a newspaper of general circulation and after 15 days' personal notice to the property owners affected.
Street Vacation [Section 1731(b)-(c)]	Advertise once no fewer than 7 days prior to passage; no such ordinance shall be effective for 40 days. If street is on recorded plan, 30 days notice in a newspaper of general circulation of the proposed vacancy. Posting of notice on affected property. Hearings on petitions against vacation-at least 15 days notice prior to hearing.

Local Government Funds

Type & Name Governmental Types:	Typical Revenues	Typical Expenditures	Remarks
General Fund (01)	Local Tax Revenues	Municipal building costs, police salaries, etc.	This is the “catch all” fund, for all accounts not specifically assigned to another fund.
Special Revenue, such as: -State Highway Aid Fund (35)	Liquid Fuels Payments, on basis of pop. & mileage	As allowed by PennDOT	PennDOT Pub. 9 prescribes policies & procedures for liquid fuels funds. Payment made March 1 if all reports are filed as required.
Debt Service Funds -Sinking Fund (20-22)	Transfers from other funds, or special tax levies	Principal & interest payment on long-term debt (G.O.)	Only one fund is needed for any number of bond issues.
Capital Projects Fund (18-19) -Municipal Building Fund	-Bond sale proceeds -Transfers from other fund	Any costs of land, construction, etc. for a municipal building	One such fund per project -- lasts as long as the project requires.
Special Assessment Funds (10-14) -Sewer Extensions Fund	Assessments made against the specific property owners who benefit from particular capital improvement.	Usually capital improvements which benefit specific property owners. Examples: sidewalks, street paving, sewer extension.	One for each special assessment project or set of projects undertaken.
-Fire Protection Fund (14)	Revenues from fire protection millage	Fire protection purposes, as specified in municipal code.	If separate millages are imposed for general fire protection and for fire hydrants, then two funds must be established.
Proprietary Types: (06-08) -Enterprise (Sewer, Water Electric, Refuse Collection)	User charges for services.	All costs of the service.	Enterprise funds are for any activity that will be self-supporting. Charges must cover operating costs, debt service, and depreciation.
-Internal Service (Motor Pool) (40)	User charges against other funds for services provided.	Services provided on a regular basis by one department of the government to another - interdepartmental charges are made. Examples: central motor pool, central print shop.	One for each major service. Many minor and/or related services performed by the same personnel and facilities may be combined.
Fiduciary Types: (50-65)	Resources for which	As specified by the	One for each separate

Trust & Agency Funds (Pension Fund, Firemen's Relief)	the government acts as trustee or other fiduciary agent.	donor, trust instrument, etc.	donation.
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Your municipality should have as many funds as necessary (due to law or other accounting requirements), but as few as possible.

Budget Calendar 2016

- First Action -** Begin preparing budget. Take note of how long budget preparations took in last year and give yourself that much or more time to complete the budget.
- Second Action -** Complete tentative budget.
- Third Action -** Adopt proposed budget.
- Fourth Action -** Advertise proposed budget notice stating where the public can examine for 10 days (calendar days not business days). If budget less than \$50,000 then just post a copy of the budget in secretary's office, but no newspaper advertisement required.
- Fifth Action-** Advertise proposed tax ordinance and special purpose taxes if applicable.
- Sixth Action -** Revision and completion of budget.
- Seventh Action -** Adopt budget and tax ordinance (can be done at same meeting) no later than Dec. 31.
- Other Action -** Any amended budget must be adopted on or before Feb. 15 following a municipal election.

Borough Fiscal Calendar

Fiscal Year:	Jan. 1 through Dec. 31
Prepare Proposed Budget: (Borough Code Section 1307 - Borough Code is cited as B.C. below)	Beginning at least 30 days prior to adoption of budget.
Publish Notice of Proposed Budget: (B.C. Section 1308)	Before a 10-day public inspection period.
Public Inspection of Proposed Budget: (B.C. Section 1308)	For 10 days after notice.
Adopt Budget and Tax Ordinance: (B.C. Section 1310 & 1310.1)	Budget must be adopted not later than Dec. 31; tax ordinance to be adopted after adoption of budget.
Amending budget in years following municipal election (November of the odd numbered year): (B.C. Section 1311)	During month of January.
Proposed amended budget available for public inspection: (B.C. Section 1311)	10 days after notice is published.
Adopt amended budget: (B.C. Section 1311)	On or before Feb. 15.
Issue tax duplicate to tax collector: (B.C. Section 1305)	Within 30 days after budget adoption or receipt of assessment roll, whichever is later.
Tax billing by tax collector: (Local Tax Collection Law)	Within 30 days after receiving tax duplicate, or 15 days if received after June 16.
Completion of audit by auditors or controller: (B.C. Section 1059[a])	Within 90 days after close of fiscal year.
File copies of audit report with borough secretary, clerk of court of common pleas, Department of Community and Economic Development and Department of Transportation: (B.C. Section 1059.1 [b.1])	Not later than 90 days after close of fiscal year.
Auditors publish concise financial statement: (B.C. Section 1059.1 [a])	Within 10 days after completion of the audit.
Appeal to court of common pleas from report: (B.C. Section 1059.4)	Within 40 days after filing of the auditor's report in court of common pleas.

Sample Budget Notice

(NAME OF MUNICIPALITY)

AVAILABILITY OF PROPOSED BUDGET

NOTICE IS HEREBY GIVEN THAT THE 2016 PROPOSED BUDGET IS AVAILABLE FOR PUBLIC INSPECTION DURING NORMAL BUSINESS HOURS (SPECIFY HOURS) AT (PLACE), LOCATED AT (ADDRESS).

_____ BOROUGH SECRETARY

_____ DATE

In addition, the borough can place the notice on the borough's web site. Note: This does not replace the mandatory legal notice in a newspaper of general circulation, but supplements it.

Act 511 Tax Ordinances

When an Act 511 tax is adopted, amended, or repealed the tax must be advertised at least once a week for three weeks prior to enactment. The entire ordinance need not be published, only certain key points. These points include the nature of the tax or license, the reason for the tax, and the estimated amount that will be raised.

Below is a sample. <http://www.newpa.com/get-local-gov-support/local-government-law-library/index.aspx>

Notice

Notice is hereby given that the Borough of _____ intends to enact a tax ordinance at the regular meeting of the council on _____. The tax will be levied on income and net profits earned on and after January 1, 20____, by residents of the Borough and on income and net profits earned by non-residents of the borough for work done or services performed or rendered in the Borough. The tax will support general government administration and is expected to raise \$_____. Copy of the proposed ordinance is on file at the Borough office and may be examined Monday through Friday between the hours of 9 and 5.

Signed/ Borough Secretary

Once the ordinance is passed, there is a 30 day waiting period before the tax is in effect. The purpose of this thirty-day period is to allow adequate time for taxpayers to challenge the ordinance.

Once the tax is in effect, it is not necessary to reenact the ordinance each year. However, the ordinance must include a section worded in such a manner as to make the ordinance effective from a given date on. A typical example is as follows:

Imposition of Tax

(a) An annual tax for general revenue purposes of one percent (1%) is hereby imposed on (i) earned income received on and after January 1, 20____, by residents of the borough; and on (ii) earned income received on or after January 1, 20____, by non-residents of the borough for work done or services rendered or performed in the borough; and on (iii) the net profits earned on and after January 1, 20____, in businesses by such residents; and on (iv) the net profits earned on and after January 1, 20____, in businesses conducted in the borough by non-residents.

(b) Those taxes shall be levied, collected and paid with respect to earned income received and net profits earned to December 31 of the current year and the tax shall continue in force on a calendar year or taxpayer fiscal year basis without annual reenactment.

Borough Taxes and Rate Limits

Under the Borough Code (cited below as B.C.), and Act 511 boroughs have authority to levy a number of taxes. The types of levies and the statutory authority and rate limits are given below:

TYPE OF TAX	STATUTORY RATE LIMIT
1. Real Property Tax	30 mills
a. General Purposes (B.C. Section 1302) Additional millage with court approval (Note: A borough may levy a higher millage on the assessed value of land than on the assessed value of improvements; however, revenues collected under a split rate tax may not exceed the revenues which would have been generated by 30 mills on the total assessed value of all taxable properties.)	
b. Interest and principal on any indebtedness incurred pursuant to the Local Government Debt Act or any other act governing indebtedness. [B.C. Section 1302(a)(1)]	Sufficient for purpose
c. Pensions and retirement [B.C. Section 1302(a)(2)]	0.5 mill
d. Shade Trees [B.C. Section 1302(a)(3)]	0.1 mill
e. Lighting [B.C. Section 1302(a)(4)]	8 mills
f. Gas, water and electric light after referendum [B.C. Section 1302(a)(5)]	8 mills
g. Purchase of fire equipment, fire apparatus, fire training, fire training school after referendum [B.C. Section 1302(a)(6)]	3 mills; may be exceeded upon approval by voters in referendum
h. Building fire house, lock-up or municipal building after referendum [B.C. Section 1302(a)(7)]	2 mills
i. Library [B.C. Section 1302(a)(8)]	no limit
j. Support of ambulance and rescue squads [B.C. Section 1302(a)(9)]; [B.C. Section 1302(e)] by referendum	0.5 mills or 2 mills by referendum
k. Special levy for debt by permission of court of common pleas (B.C. Section 1303)	No limit
l. Street improvements (B.C. Section 1304)	5 mills

m. Recreation (B.C. Section 1302 (a) (10)] no limit

TYPE OF TAX

STATUTORY RATE LIMIT

n. Community College (1963 P.L. 1132 No. 484) 5 mills

TYPE OF TAX

2. Occupation Tax

a. Borough Code [B.C. Section 1302(b)] 30 mills

b. Act 511

no limit if levied as mills on assessment value, \$10 flat rate*

3. Per Capita Tax

\$10*

a. Act 511

\$10*

4. Occupational Privilege Tax

a. Act 511

This tax may be levied on residents and non-residents employed in the borough. Only one occupational privilege tax may be levied against an individual, even though he is employed in more than one community. (See Act 511 for priority of collection of this tax). Persons earning less than \$12,000 annually may be exempted.

\$10*

Or

Local Services Tax

\$52**

a. Act 511

This tax may be levied instead of the Occupational Privilege Tax on any wage earned within the borough by both residents and non-residents. (See Act 511 for priority of collection of this tax). Persons earning less than \$12,000 annually may be exempted if the borough charges \$10. It is mandatory, if you collect between \$10 and \$52.

5. Earned Income Tax

1%*

a. Act 511

This tax is a tax on wages and net profits and may be levied on both residents and non-residents. The taxpayer's residence takes precedence over his place of occupation if both have the tax. The tax may be split with the school district in any portion that is agreed

upon. In case no agreement is reached, each may collect one-half of 1%. Should a school district levy an earned income tax pursuant to Act 50 of 1998, the borough may not claim the school district's share of the tax under Act 511.

TYPE OF TAX

STATUTORY RATE LIMITS

6. Mercantile License Tax
a. Act 511

1 mill wholesale and 1.5 mills retail on gross receipts.

7. Business Privilege Tax
a. Act 511

no limit

This tax may be levied on professions and services doing business in the borough. It may be imposed at a flat rate and is usually applied to professional persons, service occupations, merchants, vendors and similar businesses.

8. Real Property Transfer Tax
a. Act 511

1%*

9. Amusements (Admissions) Tax
a. Act 511

4% on golf courses.

Boroughs may not tax admissions to movie theaters. The tax is levied on admissions to places of amusement, entertainment, recreation, athletic events, etc. When overlapping taxing jurisdictions (school districts) levy this tax, the combined rate may not exceed 10%.

10. Mechanical Devices Tax
a. Act 511

no limit

This tax may be imposed as a percentage of receipts basis or at a flat rate as a privilege or license tax on juke boxes, pinball machines, vending machines, etc.

ACT 511 OVERALL LIMITS

According to section 20 of the Local Tax Enabling Act Boroughs may collect from Act 511 taxes a total amount equal to the product obtained by multiplying the latest total market value of real estate by 12 mills. Thus, a borough with a market value of \$10,000,000 could legally collect \$120,000 in Act 511 taxes. Act 511 taxes are subject to sharing with the school district. An exemption to this as far as boroughs are concerned is an occupation tax using a millage or percentage as a basis, as opposed to a flat-rate occupation tax.

Exemptions

Act 511 permits exemption from all or part of the liability for the occupational privilege and per capita taxes of persons earning less than \$12,000 annually from all sources.

1. Commonwealth Court has ruled that the Local Tax Reform Act (Act 145 of 1988) language prohibits a new tax levy on a gross receipts basis or an increase in rates levied prior to November 30, 1988.

* These taxes subject to sharing with the school district.

** This is a dedicated tax. At least 25% of tax revenues shall be used for public safety. The other 75% must be used for road Construction/maintenance or to reduce the amount of property tax.

Differences in Taxes and Fees

The subject of raising revenues through taxes and fees always arises during budget meetings because the cost of borough operations keeps rising every year. Officials are reluctant to raise taxes for many reasons and more boroughs are approaching or are already at their maximum tax levy of 30 mills.

Taxes and user fees are two distinct instruments which result in money being paid into the borough's coffers. Black's Law Dictionary defines taxes as "public burdens imposed generally upon the inhabitants of the whole state, or upon some civil division thereof, for governmental purposes, without reference to peculiar benefits to particular individuals or property." There are two forms of taxes "direct" and "indirect." A direct tax is "one which is demanded from the very persons who it is intended or desired, should pay it." Indirect taxes "are those demanded in the first instance from one person in the expectation that he shall indemnify himself at the expense of another."

Taxes are revenue raisers whether it's a real estate tax under the Borough Code or an Act 511 tax (Local Tax Enabling Act), but there is a statutory limit. All taxes must comply with the state's Uniformity Tax Clause, Article VIII, Section 1 of the Pennsylvania Constitution. The provision states "all taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws." A discriminatory tax is one that exempts a taxpayer from paying the per capita tax based on age. On the other hand, an exemption based on income (less than \$12,000 from all sources) is not considered to be discriminatory because it includes many classes of taxpayers (young and old).

A fee is "a charge fixed by law for services of public officers or for use of a privilege under control of government." Section 1201 (1) of the Specific Powers provision of the Borough Code allow boroughs, "to prescribe reasonable fees for the services of their officers and to enforce payment of the same."

According to various court cases, fees cannot be used as a revenue raiser like taxes. In *Commonwealth v. McFadden* (14 Beaver 242, 44 Mun. 202, 1953) the court ruled "where a fee for a license is assessed, it must be such only as will legitimately assist in the regulation, or it will be struck down." Commonwealth Court also held "fees charged by municipality for services rendered are proper if they are reasonably proportional to cost of regulation or services performed," and "municipality may not use its power to collect fees for service as means of raising revenues for other purposes," (*National Properties, Inc. v. Borough of Macungie*, 595 A.2d 742, 1991).

Some types of common fees are water/sewer rents, solid waste collection, licenses or permits (building, zoning).

Act 132 Preemption of Fee -- Boroughs are prohibited from charging a fee for registration of home improvements contractors as of July 1, 2009. Only the state's Attorney General's office is authorized to charge a registration fee.

Boroughs and Appropriations to Community Groups

PSAB is frequently asked if the borough can donate borough funds to a Little League baseball team, the local high school's dance marathon for the American Cancer Society, or for similar groups.

Sections 1202 and 2902-A of the Borough Code provide borough council with the statutory authority to make appropriations to certain enumerated groups and if the group does not appear in the Borough Code, then it's prohibited and the auditor could surcharge any official who voted to give the funds. The Specific Powers section allows council to provide borough funds to armories (2902-A); National Guard units (2904-A); veterans and American Gold Star Mothers (2911-A); municipal music (36); hospital appropriations of \$1.00 per population (39); an appropriation for civic purposes [1202 (54)] for borough anniversary celebrations and holidays; funds for neighborhood crime watch programs (53); and an appropriation for senior citizen organizations.

Article IX, Section 9 of the Pennsylvania Constitution provides additional information as to funding for other groups under "Appropriations for Public Purpose." It states that, "The General Assembly shall not authorize any municipality or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association or individual. The General Assembly may provide standards by which municipalities or school districts may give financial assistance or lease property to public service, industrial or commercial enterprises if it shall find that assistance or leasing is necessary to the health, safety or welfare of the Commonwealth or any municipality or school district. Existing authority of any municipality or incorporated district to obtain or appropriate money for or to loan its credit to, any corporation, association, institution or individual is preserved."

This section was adopted on April 23, 1968 and its purpose was to prevent the loss of municipal funds either through loans or direct appropriations made to purely private enterprises.

Council should discuss with legal counsel whether a group requesting funds has a public purpose prior to donating taxpayer funds.

Boroughs and Donations Chart

No	Yes
Salvation Army	Library
Boys' Club / Girls' Club	Volunteer Fire, Ambulance & Rescue
Scouts	Borough Anniversary/Bicentennial Group
Cancer/Heart etc. Associations	Humane Society (if borough contracts to provide pick-up service for strays)
Schools	Nurses Services
Rotary Club / Lions Club	Tourist promotion 1202 (44)
Church	Organizations of Veterans 2911-A
Memorial gifts to employees' relatives	Care and erection of memorials
"Memorial" gifts to "Officials" relatives	Rewards for apprehension of certain criminals 1202 (47)
Scholarships	Municipal Music 1202 (36)

Borough Audits & Auditors

Boroughs have alternatives for conducting audits. The borough has three elected auditors per section 805 of the Borough Code unless it has enacted an ordinance by 2/3 vote of the entire number of council members to abolish the elected auditors' offices and it employs a certified public accountant according to section 1005 (7) of the Borough Code. The accountant for the following year must be named in December of the current year.

Upon completion of the annual audit the elected auditors or the independent auditor publishes a detailed list of the borough's assets and liabilities under section 1059.1 of the Borough Code in a newspaper of general circulation. The deadline to publish the audit is March 31st or approximately ninety days after the audit is complete and the Code does not authorize the auditor to summarize the audit and a statement as to where the complete audit can be examined.

Workers Compensation Premium for Volunteer Fire Companies

For years the boroughs' volunteer fire companies were servicing other municipalities which did not have fire services. At the time there was a moral obligation rather than a legal obligation to provide monetary assistance which could defray costs and many municipalities got a free ride.

In 2002 the state legislature passed Act 60, which amended the Workers Compensation Act to mandate that a municipality receiving fire services from a host municipality to pay a pro rata share of the Workers Compensation Premium.

The Act works as follows:

Section 602. (a) The following shall apply:

(1) A municipality or an area of a municipality which receives emergency services pursuant to a contract, standing agreement or arrangement from a volunteer emergency service provider located in a host municipality shall reimburse the host municipality under the provisions of either clause (2) or (3).

(2) Reimbursement under clause (1) shall be for a portion of the cost of the workers' compensation premiums covering the members of the volunteer emergency service provider. The appropriate portion of the cost shall be determined as follows:

(i) Determine the population ratio of the municipality or the area of the municipality receiving emergency services to the entire population (host municipality and the municipality or the area of the municipality) receiving emergency services from the volunteer emergency service provider. The following shall apply:

(A) No segment of the population of the municipality or area of the municipality receiving emergency services may be included in more than one service area for purposes of calculating the ratio under subclause (i).

(B) If the "first due area" for fire protection services and the "first due area" for emergency medical services differ within a municipality or an area of a municipality receiving emergency services, then the ratio under subclause (i) shall be calculated using the "first due area" for fire protection services.

(ii) Multiply the ratio under subclause (i) by the host municipality's entire cost of the workers' compensation premium for covering members of the volunteer emergency service provider.

(3) The host municipality and the municipality receiving the emergency services may agree to share the cost on some other basis.

(b) As used in this section: "Emergency services" shall mean any of the following:

- (i) Fire protection services.
- (ii) Ambulance services.
- (iii) Emergency medical services.
- (iv) Quick response services.
- (v) Emergency management services.
- (vi) Rescue and lifesaving services.
- (vii) Hazardous material support services.
- (viii) Certified hazardous materials response services.

"Host municipality" shall mean a municipality that is responsible for workers' compensation premiums for an emergency service provider located within its corporate boundaries.

"Volunteer emergency service provider" shall mean any of the following:

- (i) A volunteer fire company.
- (ii) A volunteer ambulance corps.
- (iii) A volunteer quick response service.
- (iv) A volunteer rescue and lifesaving squad.
- (v) A volunteer hazardous materials support team.
- (vi) A volunteer certified municipal emergency management coordinator.
- (vii) A volunteer hazardous materials response team.

And finally, another important law in conjunction with the Workers Compensation Law is Act 46-2012, the fire fighter's cancer presumption law that will have an expensive impact on borough budgets unless more insurance companies enter the market for this specialized insurance.

Act 13

Act 13 - Impact fees revenues from natural gas drilling are expected to drop in 2016 according to a September 2015 report released by the Pennsylvania Independent Fiscal Office (IFO). The full IFO report is available on the Budget Bulletin website under "[Supplemental Information](#)." Please see the report for details.

Unemployment Compensation

Unemployment Compensation (UC) was established in the 1930s to assist those who became unemployed through no fault of their own. There are many factors in determining eligibility, and it's important for you to have a few tips to help minimize your unemployment costs. When unemployment is not properly managed, it can hurt your bottom line; that's why it is a good practice to understand the process and how to better manage your claims.

Documentation

- Effective documentation is crucial
- Many times employers may have the "burden of proof" with the state agency
- Documentation may help in matters outside UC such as Equal Employment Opportunity Commission (EEOC) issues and in employment litigation
- Discharges and voluntary quit situations are different; therefore, detailed documentation of every situation is vital
- In the majority of cases involving discharges, documentation is the only means an employer may have to back up the decision to terminate
- Retain relevant documents for at least 3 years
- Provide policies to employees and obtain a signed acknowledgement of policies or any changes to policies

When Documenting Performance Issues: Use Caution in Using of the Term "Unsatisfactory"

Reasons for separation can potentially be mislabeled, and a common one is: "unsatisfactory." The term "unsatisfactory" is perceived by the state to mean unable to perform and will likely result in benefits awarded to the claimant. State unemployment agencies take it to mean "could not perform satisfactorily" or, in effect, "not qualified." Remember, unemployment benefits are designed to be paid to people out of work through no fault of their own. People who accept work with the good intentions of performing it, but who are incapable of performing up to company standards or who lack the training or experience to do so are paid unemployment when discharged for one of those reasons.

Misconduct: If an employee is negligent in performing his duties, deliberately failing to follow procedures or take direction, while the word "unsatisfactory" may seem to apply, using it could lead the state agency into improperly thinking the person was discharged for inability to perform satisfactorily. If you are discharging an employee who you believe is qualified for the job (someone who has demonstrated the ability to perform

satisfactorily in the past), you should view it as a discharge “for cause” and avoid using the words “performance” or “unsatisfactory.” If a company policy was violated make sure you indicate which one and all the details of the situation in your documentation.

If the reason is failure to follow known procedures, phrases like “deliberate failure to follow procedures” are appropriate (negligence of duty can be labeled as such as well). Documented and described properly, these separations can lead to an appropriate disqualification from unemployment benefits. If improperly described, you may be paying UC benefits to someone who deliberately failed to perform the duties of the job. *Note: as soon as you determine an individual is not qualified for the job or is unable to meet performance standards, the individual should be let go immediately.* The longer they are employed, the higher your UC liability will be.

Compose Effective Written Warnings

Warnings are an aspect of progressive discipline that effectively ensures employees understand what is expected of them. State unemployment agencies look for warnings, in most instances, to determine if the claimant was discharged for misconduct, and effective, clear, non-judgmental warnings help the employer meet the “burden of proof” in discharges. Elements of a good written warning include the violation, references to policy violated (if applicable), expected action to improve, consequences if the standard is not met, employee’s action plan and comments, signature of employee, signature of witness, and signature of issuer.

Manage Your Human Resources Wisely

Practices include performing detailed reference checks. Consistently use progressive discipline. Enforce rules and policies uniformly. Follow an employee’s progress from the moment they are hired. In addition, a thorough talent assessment before hire will help alleviate or identify potential problems down the road.

Be Prepared for Hearings

Hearings require first-hand testimony as to the facts and events under consideration. Hearsay evidence is generally not persuasive and may not be considered at all.

Appeal when Warranted

An appeal is your request to the state to assign a hearing officer to review the facts of a particular case because you believe the eligibility rules have not been properly applied. Appeal if you disagree with a decision allowing the claimant benefits. Again, you must be prepared to present facts and evidence.

Avoiding Unnecessary Appeals and Overpayment

Providing insufficient information when the claim is initially filed could result in losing your rights to file an appeal. **Loss of appeal rights** means you have no more say in anything that happens in the settling of the claim; you can’t offer additional information nor can you appeal a determination that charges you for the benefits. Pennsylvania only gives you four (4) days to respond, which is a very short time frame.

Unemployment state calls are when the state needs additional information or they need a rebuttal to something the claimant said. Pennsylvania has a 48-hour deadline, in rare cases only 24 hours have been allotted; it is up to the discretion of the referee.

Complete all the details and provide supporting documentation. Provide dates of employment and all necessary details of the separation. If it is a discharge due to misconduct, provide documentation on the final incident that caused the separation; a description of events leading up to the final incident; and any documents that will show the claimant knew his actions would place his job in jeopardy or that he had been warned and knew the consequences.

Document if further incidents took place or some type of proof that actions were intentional. If it is a voluntary quit request a copy of the written resignation and obtain in personnel file for a minimum of three (3) years. If it was a verbal resignation, document the conversation between the employee and manager outlining how the resignation was submitted, as well as details of the conversation and whether notice was given, the date it took place, etc.

Pennsylvania Emphasizes Reducing Overpayment and Fraud, the Impact on Employers

All state unemployment agencies require complete details to be provided at the initial level of the unemployment claim. States no longer tolerate insufficient details with the initial claim response, in part because of the focus on reducing unemployment overpayments to claimants and fraud. From the State's perspective, the employer and claimant are the knowledgeable parties and should have the facts at hand; therefore, the state looks to the employer for professional and complete information on a separation. When an employer fails to provide complete, supporting, separation information the state must rely on the available information provided to them to make a determination of benefits.

If you would like a copy of a discharge checklist, we have several different ones available just contact Deb Janney, PSAB, at djanney@boroughs.org or at 800-232-7722, Ext. 1025.

Weigh the consequences of partial employment, layoffs, and independent contractors – Know when the employees are eligible for partial weeks of unemployment. In the case of layoffs, helping severed employees find jobs benefits the employer and employee. Independent contractors may file for unemployment and the employer needs to be able to prove he or she is not an employee of your municipality.

Seasonal Workers – Seasonal employers are defined as either full-time or part-time employees hired to perform jobs of limited duration in a wide variety of occupations (i.e. winter snow removal or summer lawn care services, etc.). Pennsylvania UC law makes no specific exemption from benefits for seasonal or part-time employees. Just like regular full-time employees, they are potentially eligible for UC benefits, if the worker is unemployed through no fault of his/her own and/or if the worker is able and available for work. Generally, seasonal workers are entitled to UC benefits, if the job is completed and continuing work is not available. If at all possible, hire individuals returning to school because they will most likely not be able and available for work after the seasonal position ends and therefore, not eligible to collect.

If you retain crossing guards under your municipality - You can establish an education institution to potentially protect the municipality from this type of UC liability. Under the PA Department of Labor and Industry website: www.dli.state.pa.us, you can find more information under Section 402.1. Benefits based on service for educational institutions.

What Does a Credit Week Mean?

(g.1) "Credit week" means any calendar week in an individual's base year with respect to which they were paid in employment as defined in this act, remuneration of not less than: One hundred dollars (\$100). This paragraph shall expire December 31, 2014. (2) Sixteen (16) times the minimum hourly wage required by the act of January 17, 1968 (P.L.11, No. 5), known as "The Minimum Wage Act of 1968." This paragraph shall take effect January 1, 2015. Only one credit week can be established with respect to any one calendar week. ((g.1) added July 10, 1980, P.L.521, No.108). To ensure up-to-date information on the definition of a credit week go to <http://www.portal.state.pa.us/portal/server.pt/community/laws/11474>.

In other words: A credit week is any calendar week (Sunday through Saturday) within the base year in which an individual earned \$116 or more, no matter when paid. You may have only one credit week per calendar week.

Require a two week notice: If an employee quits verbally, request they put it in writing. If they refuse to put it in writing, have the person who received the verbal notice provide a written signed statement detailing what the employee said. Include intended last day. Find out exactly why the employee is quitting, if not disclosed initially. If employee provides a two week notice, do not allow them to exit prior to the notice date given. This can put you at risk for a UC claim. The state will view it as a discharge vs. a quit.

Solvency Fee

The **solvency fee** allows the reimbursable employer to contest base period claims when the separation is caused by the employee. Typically this would be when an employee quits for other employment and then gets laid off from their new job. If a municipality is still in their base period, then they would be partially liable for their benefits. They would not be able to contest this claim without paying the solvency fee.

What constitutes a Base Period

Base Period is usually four consecutive quarters. The first four quarters of the last five completed calendar quarters dating back from the date the claimant filed his/her claim. Therefore, if you fall in the base period you may be subject to a portion or all of a claim regardless of the initial reason of the separation.

Schedule for Filing Municipal Reports

2016 Calendar of Filings for State Reports*

The State requires all reports to be filed electronically.

JANUARY

- 15 Tax Information Form Due [DCED-CLGS-2565]
- 15 Report of Elected/Appointed Officials Due [DCED-CLGS-69]
- 30 State U/C 2 Report Due
- 31 Deadline for Liquid Fuel Tax Forms: PennDOT [MS-965 A]

FEBRUARY

28 Floodplain Management Activities Annual Report [DCED-CLGS-5758]

MARCH

1 Municipality Approved Budget Report Form [PUC-Act13]

15 Survey of Financial Conditions: [DCED-CLGS-69]**

31 Act 205 Pension Report Due, Public Employees Retirement Commission

31 Certifications attesting to the number of police employed filed with Auditor General [Form AG-385]

APRIL

1 Public Utility Tax Rebate (PURTA) Report Filed with PA Dept. of Revenue [Form RCT-900]

1 Annual Financial Report filed with DCED [DCED-CLGS-30]

15 Unconventional Gas Well Fund Usage Report [PUC-Act 13]

30 State U/C 2 Report Due

MAY

1 Last day for public officials to file Statements of Financial Interest with home borough.

JULY

30 State U/C 2 Report Due

OCTOBER

29 State U/C 2 Report Due

* When due date is a Saturday or Sunday, the state recommends filing on the Friday before.

** Technically not due until 3/15, but if not filed before 31 your Liquid Fuels Payment could be withheld.

DECEMBER

1 Last day to report to DCED any new enactments, repeals or changes in rates for either EIT or LST to be effective January 1st. Use form [DCED-CLGS-2565] along with a copy of the tax ordinance. If your borough does not pass its real estate tax ordinance before you file, you should file an amended DCED-CLGS-2565 by Jan. 15, 2016.

Department of Community and Economic Development Reports

[Downloadable tip sheets for Filing Each DCED form](#)

When Due	Report	Identification	Who Files
March 1	Report of Tax Collector	DCED-CLGS-33	Tax Collector-Elected-Boroughs
March 15	Survey of Financial Conditions	DCED-CLGS-69	President of Council
April 1	Annual Financial Report (Boroughs)	DCED-CLGS-30	Auditors
15 days after effective date by December 1 for effective Jan.1 if after Dec., then effective July1.	Ordinance or Resolution-Act 511 Taxes (EIT or LST)	DCED-CLGS-2565	Secretary or Treasurer
90 days after close of fiscal year. If fiscal year ends Dec. 31, report due March 31 of following year.	Report-Municipal Authority	DCED –CLGS-04	Certified Public Accountant
January 15	Municipal Tax Information	DCED-CLGS 2565	Secretary
January 31	Municipality Report of Elected & Appointed Officials	DCED-CLGS-19	Secretary
February 28	Floodplain Management Activities Annual Report	DCED-CLGS-57	President of Council

Department of Transportation (PennDOT) Reports

[Link to PennDot Municipal Services \(MS\) Forms](#)

When Due	General Forms	Send To
January 15	DCED-CLGS-19 Municipality Report Elected and Appointed Officials	4 copies to PennDOT Bureau Municipal Services: 6th Floor, Commonwealth Keystone Building, Harrisburg, PA 17120-0041
January 15	Form MS-965-S-Record of Checks State Fund Account	4 copies to PennDOT District Office
January 15	Form MS-965-Actual Use of State Funds Report	4 copies to PennDOT District Office
October 1	Form MS-990-Road Mileage & Type	2 copies to PennDOT District Office
Municipality MUST possess an approved copy PRIOR to expenditure for construction or reconstruction.	Form MS-339-Application for County Aid	4 copies to County Commissioners
Complete prior to inspection by local authority & PennDOT Rep.	Form MS-999L-Completion Report	PennDOT District Office 3 copies if State Aid 4 copies if County 5 copies if Both

Contract Purchase Forms/Work Performed by Contract

(All these forms should be submitted together)

Must be executed prior to performance of work	Form MS-944-Contract	1 copy retained by Municipality	Attach Bond to each copy (Form 9445)
Same as above	Copy of Advertisement	1 copy retained by Municipality	Tabulation of all bids received & copies of plans & specs retained by secretary.
Same as above	Copy of Bid Tabulation	1 copy retained by Municipality	
Same as above	Proof of advertisement	1 copy retained by Municipality	

Contract Purchase Forms/Purchase of Materials or Equipment in Excess of \$19,400

(To be retained by local secretary Treasurer)

Must be approved prior to performance of work	Form MS-963	Attach bond to each copy Material up to \$5,000; 50% bond; over \$5,000; 100% bond.
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Act 205 Reports

The Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) requires each municipality to submit actuarial valuation reports to the Public Employee Retirement Commission by March 31. In addition, a copy of the state aid certification form – [Form AG-385](#) – must be filed with the Department of Auditor General by March 31. Failure to do so will result in the suspension of state aid for the municipality’s pension fund and aid for the volunteer fire relief association.

The actuarial report should be sent to the Public Employee Retirement Commission, P.O. Box 1429, 510 Finance Building, Harrisburg, PA 17105-1429. The state aid certification form should be sent to the Department of the Auditor General, Bureau of Municipal Pension, Fire Relief Program Unit, 500 Samters Building, 101 Penn Avenue, Scranton, PA 18503-2025. Visit www.auditor.gen.state.pa.gov for the most up-to-date information.

The state aid unit value for 2015 is \$3,920.83—an increase of \$43.15 (1.2%) over 2014. These state-aid monies must be deposited into the applicable municipal pension plan(s) within 30 days of receipt. Boroughs should note that how they distribute unit value allocations among uniformed and non-uniformed pension plans is at their discretion.

Act 205 of 1984, also provides for distribution of state aid for Volunteer Fire Company relief associations. Under the act, all revenues received from the state tax on foreign casualty insurance premiums are placed in a

restricted receipts account; the revenues, and all interest earned thereon, are distributed to municipalities to aid them in meeting municipal pension plan funding requirements.

Municipalities receiving pension aid under Act 205 receive either an amount equal to 100 percent of the minimum municipal obligation for that year, based on actuarial reports filed with the Public Employee Retirement Commission, or a unit value allocation. The unit value varies from year to year; municipalities which receive unit value allocations receive two units for each police officer and paid firefighter and one unit for each non-uniformed employee who is a member of a municipal plan.

Revenues received from the state tax on foreign fire insurance premiums are placed in a restricted receipts account. A portion of the funds are used to provide aid to municipalities for pension plans for paid firefighters.

Survey of Financial Conditions

Under Act 47 of 1987 (the Municipalities Financial Recovery Act), as amended, each municipality is required to complete the Survey of Financial Conditions (DCED-CLGS-69) and return it to DCED by January 31. The president of council must sign this document.

Failure to comply will result in the retention of liquid fuels tax monies. Forms should be completed by the president of council and returned to the Governor's Center for Local Government Services, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0225 or www.newpa.com/get-local-gov-support/municipal-statistics/electronic-filing-of-municipal-statistics-forms

Foreign Fire and Casualty Insurance Premium Taxes

The remainder of the monies are distributed to municipalities for reallocation to volunteer fire company relief associations. Fifty percent is allocated on the basis of the municipality's population; the remaining fifty percent is distributed on the basis total assessed valuation of properties in the municipality.

REVENUES FROM STATE AGENCIES

2016 Estimated Liquid Fuels Tax Payment

Act 42-2013 amended the Liquid Fuels Tax Municipal Allocation Law to move payment dates of the annual payment from April 1 of each year to March 1.

As a reminder, in order to receive the annual Municipal Liquid Fuels Tax Fund allocation, a municipality must be certified. Part of the certification process includes the submission of three reports to PennDOT and DCED. The MS-965 *Actual Use Report of State Funds* and the *Report of Elected and Appointed Officials* are both due on January 31. The *Survey of Financial Condition* is not due until March 15, even though it is technically on time; a municipality would not receive their allocation on the March 1 if this form is submitted on the March 15 deadline.

PennDOT *estimates* of 2016 municipal liquid fuels allocations are currently [available on the supplemental section the Budget Bulletin website](#). *Final liquid fuel allocations* amounts will be available in February 2016 for each municipality. If you have satisfied all of the reporting requirements, PennDOT will release your distribution on March 1, 2016. If you have any questions relative to your 2016 Liquid Fuels Tax Allocation, please contact PennDOT’s Center for Program Development and Management, Telephone (717) 787-5246 or e-mail RA-pdcpdmfinconsult@pa.gov . Visit www.dot.pa.gov for the most up-to-date information.

Required Forms for Liquid Fuels Tax

This notice is written to remind each borough secretary that the following list of qualifying forms **MUST** be received by the PennDOT or DCED on the following dates in order for your borough to be eligible to receive its Liquid Fuels Tax allocation on March 1 according to Act 42-2013.

Form No.	Form Title	Last Day To Be Received For Payment on March 1	Where To Be Filed
MS 965	Actual Use	January 31	Your District Office
DCED-CLGS 19	Report of Elect. & Appt. Officials	January 31	DCED
DCED-CLGS 69	Survey of Financial Conditions	January 31	DCED

More Information about Liquid Fuels Calculation

The Liquid Fuels Tax is based on the following information:

- 20% of 11 1/2 cents of the state’s liquid fuels tax receipts
- 20% of 35 mills of the state’s oil franchise tax, plus \$5 million
- 12% of the 55 mill oil franchise tax authorized by Act 26 of 1991
- \$30 million of Act 44 funding

The above are the revenue streams for liquid fuels funds allocated to municipalities (other than counties).

The distribution of the revenue is based upon 50% liquid fuels eligible road mileage and 50% on population (latest official census).

County Distribution of State Liquid Fuels Tax

Counties receive one-half cent of the twelve cents per gallon State Liquid Fuels and Fuels Use Tax. Some counties allocate a portion of these funds to the boroughs, cities and townships located within the county. The formula in the law generally requires a split allocation of 50% mileage/50% population of these funds; however, there is some discretion vested in the county commissioners as to how the funds can be distributed.

Municipalities interested in receiving these funds, which may be used only for construction, reconstruction, maintenance and repairs of roads, highways and bridges, should contact their county commissioners for any commitment of these revenues in 2016.

State Police Fines and Penalties

Act 124-2012 amended the PA Judicial Code effective September 2012. There is a significant change in regards to the distribution of state fine moneys to certain municipalities. The new dispersion of the fine money under the Act is as follows: “(a) to all municipalities with a population of under 3,000; or (b) to municipalities with a population over 3,000 that provides at least 40 hours per week of local police services through a municipal or regional police department for police services.”

If the borough does not meet the above requirements then it will not receive any fine money and their share is transferred to the State Police for police cadet classes. In addition, all fines moneys generated as a result of state police action on interstate highways will be sent to the Motor License Fund for use by the Commonwealth. Because this money previously went into the pool for distribution to all municipalities, a borough’s share of future fine moneys could be decreased even if they meet the above criteria.

Direct Deposit Available for Liquid Fuels, Other Funds

Boroughs may receive their liquid fuels payments and state police fines and penalties payments from the Department of Transportation (PennDOT) through direct deposit (electronic transfer). Direct deposit allows boroughs to begin earning interest on the funds immediately and provides same-day availability of funds. This new service is the result of an effort initiated by the PA Local Government Investment Trust (PLGIT), an inter-municipal deposit and investment service created and run by local governments and sponsored by PSAB.

To have funds transferred electronically to its designated account, including any account with PLGIT; a borough must complete two forms with information on its account and submit the forms to the PennDOT Controller’s Office. Once received, the comptroller will confirm that the information is in the proper format to permit future transfer of payments.

To obtain the necessary forms or for additional information, contact PennDOT Controller’s Office, at 717-783-4014. PLGIT members may contact PLGIT at 800-572-1472 or www.plgit.com.

Public Utility Realty Tax (PURTA)

Act 27 of 1979 (as amended by Act 4 of 1999) provides for distributing to each reporting local taxing authority the funds that it would have received from taxes on the real property of public utilities if they were taxable.

The distribution is based on the ratio between the total tax receipts of a local taxing authority and the total tax receipts of all reporting tax authorities. This ratio is then applied to the total Public Utility Realty Taxes collected by the state; this amount is disbursed to the municipality.

Political subdivisions will be required to submit to the Department of Revenue by April 1 of each year the following information: (1) the name and address of each public utility owning utility realty within its jurisdiction, and the assessed valuations, State taxable values (assessed values adjusted by the common level ratio), realty tax equivalents, real estate tax rates, and real estate parcel identification numbers of all utility realty for the political subdivision's fiscal year which began in the taxable year; (2) its total tax receipts for its last completed fiscal year; and (3) any adjustment to the assessed values, tax rates, realty tax equivalents or total tax receipts previously reported.

To be eligible to receive money under the Act, the municipality must file a public utility realty report by local taxing authorities on Form RCT-900 with the Department of Revenue no later than April 1. Payments are made to municipalities by October 1 of each year. Every local taxing authority is eligible, even if you do not have utility-owned property within your jurisdiction. The department does not have an estimate as we go to press. Visit www.purta.state.pa.us/distribution_report.asp for the most up-to-date information.

For more information and applications contact:

PA Department of Revenue
Bureau of Corporation Taxes
6th Floor, Strawberry Square
Harrisburg PA 17128-1100
Telephone: (717) 787-6478
www.revenue.pa.gov

Unclaimed Funds

The PA Department of Treasury might have some funds for your borough or for you personally. The sources of unclaimed funds for boroughs come from insurance companies or overpaid taxes. Speaking from an individual perspective it may come from an uncollected final paycheck, bank accounts, stocks, beneficiary from an insurance policy, a forgotten safety-deposit box or other financial documents.

In order to check for Unclaimed Property go to www.patreasury.gov/unclaimedproperty or call 800-222-2046. The first block will list company (or list your borough's name) and the second block leave blank for the borough, but list your last name if it's for you. PSAB has found money for several boroughs. If your borough or you personally, are fortunate it will appear as the source of the funds and then state whether it's less than \$100 or more than \$100. There will be information on how to claim your funds. There is never a charge to claim the property therefore disregard any advertisements stating that they will collect your funds for a fee.

Wage Laws

Prevailing Wage

The Pennsylvania Prevailing Wage Act (43 P.S. 165) requires municipalities which have public contracts that will exceed \$25,000 to pay the prevailing minimum wage to all workers. This rate is set by the Prevailing Wage Division of the Department of Labor and Industry. Call 800-932-0665 for assistance.

Act 89-2014 authorizes municipalities to spend up to \$100,000 for road work before Prevailing Wage applies. Please note this only applies to road work and bridges, and not construction of buildings, etc.

When the advertisement for such bids is prepared, it must be stated that prevailing wages will be paid and enforced during the contract period. Visit www.dli.pa.gov for the most up-to-date information.

Minimum Wage

There are two separate Minimum Wage Laws, one state and one federal. Pennsylvania's Minimum Wage Law does not apply to local governments because they are not included in the definition of employer under the law.

The federal Minimum Wage Act does apply to Pennsylvania local governments and is currently \$7.25 an hour. Visit www.dol.gov/dol/topic/wages/index.htm for the most up-to-date information.

Fair Labor Standards Act Comparison Chart

Provision	Non Uniform	Uniform
Minimum number of employees for FLSA to apply	No requirement	5 (include full time and part time police engaged in law enforcement)
Overtime Rate	1 1/2 regular rate of pay	1 1/2 regular rate of pay
Compensatory Time vs. Compensatory Pay	Comp time allowed if pursuant to collective bargaining agreement or agreement prior to start of work	Same
When does 1 1/2 start?	41 st hour in the work period	Usually 44 th hour in the work period unless bargained down to 40
Maximum compensatory time which may accrue?	240 hours	480 hours
Exempt employees	Volunteers, part time, bonafide executive, administrative, or professional employee, depends on work performed rather than job description	Same

Proposed Changes to FLSA in 2016

President Obama has directed the Federal Department of Labor to revise the threshold for salary and enable more Americans to earn a working wage. If adopted the Fair Labor Standards Act would enable more workers to be eligible for overtime pay. It would further define what constitutes executive, administrative, and professional employees who are exempt from overtime pay as some employers have misclassified their staff. The public comment period ends September 4th and then the department will review all comments and make a decision. The current salary test is \$455 per week or \$23,660 per year. The proposed amendment would increase the salary threshold to clarify non-exempt employees to protect their overtime rights. The salary threshold would increase to \$970 a week or \$50,440 in 2016. PSAB will track this important proposal and will alert you if this becomes law.

Council/Mayors Compensation Chart

(Section 1001 Borough Code)	
Council	Maximum Allowable Compensation
Pop. < 5,000	\$1,875
5,000 - 9,999	\$2,500
10,000 - 14,999	\$3,250
15,000 - 24,999	\$4,125
25,000 - 34,999	\$4,375
35,000 and up	\$5,000
(Section 1004-A Borough Code)	
Mayor	Maximum Allowable Compensation
Pop. < 5,000	\$2,500
5,000 - 9,999	\$5,000
10,000 - 14,999	\$7,500
15,000 and up	\$500 per 1,000 population

Compensation is not mandatory, but above are the maximums that a borough can pay.

Compensation for Planning Commission Members

Act 2 of 2002 amended the PA Municipalities Code to allow planning commission members to receive the same compensation as council members according to population ranges set forth in section 1001 of the Borough Code. However, no planning commission member is eligible for compensation if he is an elected official, an appointed official or an employee.

Changes in Elected Officials Compensation

The PA Supreme Court ruled in *Buckwalter v. Phoenixville Borough* (985 A.2d 728, PA 2009) that compensation cannot be changed during an elected official's term of office. Any change would become effective after the official has been re-elected to office.

Compensation for Officials Serving in two Capacities

Act 37-2014 amended section 1104 (h) of the Borough Code to authorize council and mayor to receive compensation for serving on a municipal authority board, however, it does not apply to a planning commission. The provision reads as follows: "nothing contained in this section shall be construed to affect the eligibility of a borough official to hold any other public office or receive compensation."

PSAB Dues Schedule

PSAB's 2016 membership dues will be the same as last year.

Your borough's dues are calculated based on the market value of taxable real property in the borough. Figures provided by the State Tax Equalization Board (which calculates each municipality's market value of 100% assessment) were used to determine your market value of taxable real property. Visit www.portal.state.pa.us/portal/server.pt/community/realty_transfer_tax/11417/common_level_ratios/580584

Municipal Associate Membership: Non-borough municipal entities wishing to participate in any PSAB program(s) must pay \$225/year for that privilege in lieu of Association dues. This membership category is open to political subdivisions, cities, townships, and COGs interested in participating in Association sponsored programs.

Associate Sponsorship: Associate sponsorship is open to private agencies, interested firms, and individuals. Dues are \$225/year for the first person in the organization and \$100/year for each additional person.

2016 PSAB PROGRAMS

All PSAB Programs described below are overseen by the PSAB Trustees, a group of 12 borough officials appointed by the PSAB President.

APPI Energy Procurement

PSAB's Energy Procurement Program (PEPP), administered by Affiliated Power Purchasers International, LLC (APPI), was established to assist municipalities in identifying and implementing solutions to reduce and manage energy costs. APPI will submit a request for proposal (RFP) to qualified competitive energy suppliers. They evaluate, compare, and outline the differences in your options to help you select the best energy supplier for your municipality at **NO UPFRONT COST**. Additionally, APPI negotiates supply contract terms and conditions to fit your borough's needs.

To receive more information call or email Jane Seagraves, APPI, at 800-520-6685 or jseagraves@appienergy.com.

Borough Elected Officials Insurance Program

PSAB offers life and accidental death and dismemberment insurance for borough elected officials. Elected officials will pay \$8.60/month for individual coverage, and \$11.60/month for family coverage. Policy value is \$10,000 for elected officials under the age of 65; beginning at age 65, the amount of coverage will reduce by 35% every five years. The minimum coverage available is \$1,000. Spouse coverage is \$2,000 and each child is eligible for \$1,000. Again, these policies are guaranteed issue, guaranteed renewable, and guaranteed convertible.

The borough must be a PSAB member in good standing, a participation resolution must be passed by borough council, and a \$25 enrollment fee must be paid to PSAB annually.

For more information, contact Deb Janney, PSAB, at 800-232-7722, Ext. 1025 or by email at djanney@boroughs.org.

Borough Management Caucus

The Borough Management Caucus (BMC) can help enhance the borough management function by providing specialized training and services to borough managers and secretaries.

Benefits of the program include:

- A term life and accidental death and dismemberment insurance policy in an amount up to \$5,000 (underwritten by Nationwide). The policies are guaranteed issue (no health questions), guaranteed renewable, and guaranteed convertible.
- Free participation in one PSAB webinar of your choice
- Advertise positions available within your borough for free on PSAB's website
- A biannual newsletter coordinating BMC activities and sharing resources
- Eligibility to receive the distinguished Certified Borough Official (CBO) designation

To qualify, the borough must be a member of PSAB in good standing. The position of the manager and/or secretary must have been established by Borough Code and the said manager/secretary must work a minimum of 20 hours per week. In addition, a resolution must be approved by borough council concerning participation in the program, and a fee of \$25 per enrollee must be paid to PSAB annually.

For more information contact Deb Janney, PSAB, at 800-232-7722, Ext. 1025 or by email at djanney@boroughs.org.

Keystone Municipal Insurance Program and Keystone Municipal Insurance Trust (Workers' Compensation/Property Casualty)

The Keystone Municipal Insurance Program (KMIP) and the Keystone Municipal Insurance Trust (KMIT), are both available through the Keystone Insurers Group (KIG) based in Northumberland, PA.

KMIP is a safety group insurance program providing workers' compensation and property and casualty insurances for municipalities. Personalized and experienced service is provided by Keystone's strong agency network with over 100 offices statewide.

Program features include competitive, consistent pricing; individual loss control services; safety seminars; and risk management training. Another feature is the opportunity to earn a dividend if group losses are minimized. This dividend feature is only available to PSAB members.

KMIT is an optional, self-insured workers' compensation insurance trust (pool) available to municipalities who prefer a self-insured product with dividend potential.

For more information on either of these programs please contact Deb Janney, PSAB, at 800-232-7722, Ext. 1025 or by email at djanney@boroughs.org; or you can contact Lori Simpson, KIG, at 570-473-2146 or 888-531-0995 or lsimpson@keystoneinsgrp.com.

Municipal Employee Drug and Alcohol Testing

PSAB's Department of Transportation (DOT), Commercial Driver License (CDL), Drug and Alcohol Testing program provides boroughs with all of the drug and alcohol testing required by law including random; pre-employment; post-accident; reasonable suspicion; return-to-duty; and follow-up testing.

Boroughs may also request testing for non-DOT (non-CDL) employees. There are hundreds of locations across the state where employees can be tested. The program administrator, FirstLab, handles selection, notification, and scheduling. Non-DOT employees are not federally required to be tested.

In addition to the random testing, other program features include training workshops for drivers and supervisors, retention of required records by the program administrator, immediate response assistance, and a certificate of compliance.

There is an annual fee of \$75 paid to PSAB in order to participate in the drug and alcohol testing program. For further information or to enroll in the program contact Deb Janney, PSAB, at 800-232-7722, Ext. 1025 or by email at djanney@boroughs.org.

Municipal Retirement Trust (MRT) and Deferred Compensation Plan

PSAB offers your municipality two programs to help you provide retirement benefits for your employees at low cost. Both programs are overseen by the PSAB Trustees.

The PSAB Municipal Retirement Trust (MRT) was established in January 1972 and is a comprehensive pension program that was specifically designed to meet the investment needs of municipal government. It has maintained one of the highest portfolio retention rates in the Commonwealth. The program provides first-class investment, eases the administrative burden on local governments, and is affordable. The Trust offers both a fixed investment plan and a balanced portfolio plan. Diversification of investment of funds assures continued growth and success for the Trust. The Trust is administered by Thomas J. Anderson & Associates of Kennett Square, PA. For information contact Linda Costa, PSAB, at 800-232-7722, Ext. 1028 or by email at lcosta@boroughs.org.

The PSAB Deferred Compensation Plan is a unique supplemental retirement program you can make available to your employees at low or no cost to the municipality. The Plan allows employees to utilize before-tax savings in a deferred compensation plan, or after-tax savings through IRAs, to lower taxes while saving for retirement. Municipal employees can save up to 25% of their income each year without having to pay federal taxes on the amount they save. In addition, the interest earnings accumulate tax-deferred.

MetLife Resources, Inc. is a nationally-known deferred compensation administrator who has been affiliated with PSAB for over 15 years. To contact MetLife, please call 800-492-2505 or contact Deb Janney, PSAB, at 800-232-7722, Ext. 1025 or by email at djanney@boroughs.org.

Pennsylvania Local Government Investment Trust

The Pennsylvania Local Government Investment Trust (PLGIT) was created in 1981 to meet the short-term investment needs of local governments, school districts, municipal authorities, and other types of governments in the Commonwealth. PLGIT now serves more than 2,900 public entity investors across the Commonwealth and cooperatively invests more than \$3.4 billion* across multiple programs. The Trust is sponsored by PSAB and six other local government organizations. PLGIT invests in only those types of investment instruments that are permissible under Pennsylvania statutes and regulations. Since PLGIT invests on a much larger scale, the potential yield is higher than most municipalities can obtain on their own.

PLGIT is governed by an 11 member Board of Trustees, each of whom is a Pennsylvania local government official or full-time employee elected annually by the Trust participants. Trustees represent each of the governing associations. The Trust's Investment Advisor and Administrator is PFM Asset Management LLC; the legal counsel is Saul Ewing LLP; and the auditor is Ernst & Young LLP.

To join PLGIT, a local government must enact an ordinance and complete a W-9 and account paperwork. A model ordinance is provided by the Trust. To receive more information and current rates please call 800-572-1472 or visit our website at www.plgit.com.

Local governments may establish as many PLGIT accounts as they wish. For example, accounts might be opened for the general fund, recreation fund, liquid fuels, sewer fund, etc. Multiple accounts provide a clear audit trail. Each account receives month end or quarter end results, plus fiscal year end statements. PLGIT offers many direct deposit programs including: state and federal subsidies, Department of Community and

Economic Development grants, and Act 511 taxes. PLGIT has no compensating balances, earnings credit rates, or reserve requirements for investor accounts. One hundred percent of funds invested earn the quoted PLGIT yield.

The Trust offers eight distinct investment options. Working together, these programs give local governments the flexibility to manage cash flow and optimize earnings.

PLGIT is a portfolio of the Trust that operates like a money market fund and stresses safety of principal as its primary objective - a fact underscored by its AAAm** rating from Standard & Poor's. This professionally managed portfolio offers three classes of shares:

- PLGIT-Class Shares, a flexible option which requires no minimum balance, no minimum initial investment, and a one day minimum investment period. Dividends are paid monthly.
- PLGIT/PLUS-Class Shares, an option which requires a minimum investment of \$50,000, a minimum investment period of 30 days, and has a premature withdrawal penalty. Dividends are paid quarterly.
- PLGIT/I-Class Shares, an option in which the shares are invested and redeemed by the Investor only through PLGIT's Easy Online Network (EON), the Trust's online account access system. This option requires a minimum initial investment of \$50,000 and limits redemptions or exchanges to two (2) per calendar month. However, there is no minimum investment period.

PLGIT/ARM is a program for the investment of bond proceeds only, consisting of a portfolio of the Trust which operates like a money market fund and individual portfolios of Investors. This option has no minimum initial investment requirement and has a minimum investment period of one (1) day. PLGIT/ARM is designed to assist participants investing tax-exempt proceeds to comply with certain IRS arbitrage requirements. This program offers unlimited checking, and competitive interest earnings paid on 100% of the balance monthly. Arbitrage services are also provided at no separate charge.

PLGIT/PRIME is a variable rate investment portfolio rated AAAm** by Standard & Poor's. This web-based option requires a minimum initial investment of \$50,000 and limits redemptions or exchanges to two (2) per calendar month. This option may not be appropriate for all Investors. Investors should review relevant investment policies, statutes and covenants for their entity to determine eligibility.

PLGIT/TERM is a fixed term investment portfolio of the Trust with maturity of up to one (1) year, depending upon the termination date of any particular series within this specific portfolio. This option requires a minimum initial investment of \$100,000, a minimum investment period of 60 days, and has a premature withdrawal penalty.

PLGIT-CD Purchase Program is an option that enables investors to directly purchase Certificates of Deposit (CD) which are intended to be fully insured by the Federal Deposit Insurance Corporation (FDIC). Investments in the PLGIT-CD Purchase Program are direct investments of the Investor, not assets of the Trust or under control of the Board of Trustees.

PLGIT/Separate Account Management (SAM) Program is an option consisting of an individual portfolio(s) of fixed-rate and longer-term investments selected in a manner consistent with applicable municipal code(s) and the Investor's investment policy. Investments in a PLGIT/SAM Program individual portfolio account are direct investments of the Investor, not assets of the Trust or under the control of the Board of Trustees.

In addition to these deposit and investment services, PLGIT also offers: Bond Pools - Variable rate loan programs for Pennsylvania local governments. Loans are available for capital projects in the range of \$1 to \$20 million.

PLGIT Debit Card/Credit Card Acceptance

This merchant services program gives participating entities the ability to accept debit and credit cards for fees, fines, permits, taxes, etc. Funds are available in the PLGIT account within 48 hours. PLGIT has negotiated competitive rates on discount, per transaction fees, and convenience fees.

Procurement Card Program (P-Card)

The P-Card looks and operates like a credit card but does not carry a revolving line of credit. Using a procurement card to make purchases eliminates the typical requisition, purchasing, receiving, and accounts payable processes and other time consuming steps and costs involved in purchases. There is no cost to join the P-Card Program and individual card limits can be set by transaction, vendor, or time period while controlling maverick purchases and contractor/vendor usage. A cash rebate of the total annual purchases is available to municipalities who reach the eligibility level.

* As of December 31, 2014

**Standard & Poor's fund ratings are based on analysis of credit quality, market price exposure, and management. According to Standard & Poor's rating criteria, the AAAM rating signifies excellent safety of invested principal and a superior capacity to maintain a \$1 per share net asset value. However, it should be understood that the rating is not a "market" rating nor a recommendation to buy, hold or sell the securities.

The Employment Alliance of Municipalities (TEAM)

The Employment Alliance of Municipalities (TEAM) provides participants with quality labor and legal counseling on labor/employment issues facing public employers. TEAM members benefit from access to expert legal advice on various federal and state labor laws. Legal services are provided by one of the leading labor law firms in Pennsylvania, with extensive experience in Pennsylvania public sector employment law.

TEAM membership includes:

- Free telephone and/or email legal counseling up to eight times per calendar year at no charge to the municipality
- Free email alerts on cases and changes to laws and regulations
- Attendance of one person for free to the annual PA Municipal Legal Update
- Representation at negotiations, hearings, and arbitrations
- Analysis of personnel handbooks, labor contracts, and civil service rules/regulations at a reduced rate
- Workplace audits at a discounted rate

PSAB members pay an annual fee of \$300 to participate in TEAM. For more information, please contact Deb Janney, PSAB, at 800-232-7722, Ext. 1025 or by email at djanney@boroughs.org.

Unemployment Compensation Plan

The PSAB Unemployment Compensation (UC) Plan began operating on Jan. 1, 1981 and provides UC coverage to more than 15,000 municipal employees statewide. The Plan does not replace the UC system

established by the state of Pennsylvania; it is simply a more economical way for municipalities to finance their UC costs.

The 630 plus employers participating in the Plan contribute based on the wages paid to their employees. The Plan, in turn, reimburses the Commonwealth for claims on behalf of the employers, and also provides the employers with claims service.

In Pennsylvania, municipalities must finance their UC one of two ways: as a contributory employer or as a reimbursable employer. Contributory means paying a percentage rate each quarter to the state. State rates vary and can be as high as 10% or more of base payroll. Base payroll is the first \$9,000 of each employee's wages per year. Reimbursable employers do not pay anything for UC until a claim occurs, and then they reimburse the state for the exact amount of the claim. All employers in the PSAB UC Plan are reimbursable employers, meaning the Plan pays the state for claims after charging the employers a much lower rate than the state does to cover claims and administration.

The Plan has a four-tiered rating system, also utilizing the base payroll of the first \$9,000 earned by each employee. For many contributory employers this rate is less than one-half of the amounts they are paying to the state. Reimbursable employers join the Plan because it eliminates risk and provides budget stability. The PSAB UC Plan provides claims services through Equifax Workforce Solutions that will save you time and money.

To join the Plan for 2016, your borough must be a member of PSAB in good standing and become a reimbursable employer. This requires filing some forms with the state before the end of November 2016. PSAB supplies all necessary forms to do this. If you already are a reimbursable employer, you can join the Plan at the beginning of any calendar quarter.

The Plan offers an online reporting program for you to submit your UC quarterly report easily and efficiently. Our online report calculates the yearly gross wages and taxable wages after you input each employee's quarterly gross wages. You are then able to print a copy of your report for your records. There is an online demonstration report at <http://demo.psabuc.org/>.

PSAB, in cooperation with PLGIT, provides the ability to transfer quarterly UC payment electronically by calling or faxing the PLGIT office with the necessary information.

For more information about the Plan contact Deb Janney, PSAB, at 800-232-7722, Ext. 1025 or by email at djanney@boroughs.org.

Website Program

This program will help you showcase your municipality by developing a custom made website. You can post items such as your monthly meeting dates and minutes, community events, and contact information.

Low participation costs now afford your borough the opportunity to go "global" and let the world know about your municipality. It is also a tremendous way to keep your citizens up-to-date on the latest borough decisions and activities.

For more information about this program, please contact Deb Janney, PSAB at 800-232-7722 Ext. 1025 or by email at djanney@boroughs.org.

Junior Council Person (JCP) Program

This program seeks to involve the youth in the governance of their home boroughs. We believe this is a worthy opportunity for teens to participate in building our boroughs towards the future. A participating student must be a borough resident and a high school junior or senior. He or she must take a “Junior Council Person Pledge” to serve a one to two year term to coincide with the school year, attend monthly council meetings, budget sessions, and other “special” meetings. JCPs are seated with council, participating in any/all business and must observe all borough council meeting rules; however, students participating in the program are not allowed to vote or attend executive sessions.

To get started, council must pass a resolution to enable students to participate as a Junior Council Person, and contact their local high schools to provide administrators with information about the program. Any student who is interested in participating in the program must write a letter of interest to borough council. Council then makes its selection(s) from submitted applicants. In 2015, PSAB began recognizing JCPs in good standing with a Distinguished Junior Council Person award. More information on the JCP program is available at www.boroughs.org under the “Programs” tab.

Conferences

Mileage and Conference Expenses

Under section 701 of the Borough Code, the borough may include “registration fee, mileage for use of personal vehicle or reimbursement of actual transportation expense going to and returning from such meeting plus all other actual expenses that the council may have agreed to pay. Every delegate attending the annual meeting shall submit to the council an itemized account of expenses incurred thereat.” For other meetings, section 703 of the Borough Code provides that any borough, by motion of council, may authorize any official and/or employee of the borough to attend meetings of professional organizations and associations, study or training sessions, and may pay all or any specified portion of the necessary expenses incident to attending such meetings or sessions.

Section 704 of the Borough Code provides for the amount of conference expenses a mayor may be authorized when attending the annual meeting of the Mayor’s Association. The amount a mayor may receive for expenses includes “registration fee, mileage for use of personal vehicles or reimbursement of actual transportation expense going to and returning from such meeting plus all other actual expenses that the council may have agreed to pay. Every mayor attending the annual meeting shall submit to the council an itemized account of expenses incurred at the annual meeting.”

Section 701.2(b) of the Borough Code allows the borough council to authorize “the mayor and any council member who is not employed by the borough to receive total or partial reimbursement for lost wages or salary while attending the annual meeting, provided that sufficient documentation is presented to the borough council to justify the reimbursement.”

The same act authorizes the same for attendance at county and regional associations of boroughs under section 702 of the Borough Code.

Officials should be cautioned that the State Ethics Commission has ruled that **spouse's expenses are not legal unless they are a bona fide elected/appointed borough official or borough employee**. The Commission has charged several officials with violating the State Ethics Act when they sought reimbursement for spouses' expenses.

Please note that the IRS rate for mileage reimbursement can be found at www.irs.gov and type "mileage rate" into the search bar.

PSAB Conferences

Don't forget to include an education line item in your borough's 2016 budget for PSAB Conferences:

Annual Conference	June 5-8, 2016	Hershey Lodge
Fall Conference	Oct. 14-16, 2016	Wyndham Gettysburg

For the fall conference, budget about \$500 per person including registration fee, two nights' accommodations, meals, and travel expenses. For the annual conference, plan on approximately \$1,100 per person covering registration fee, three nights' accommodations, meals, and travel expenses. Please note that most meals are included in the registration fee.

2016 Municipal Legal Update Conference

August 2016 Harrisburg/Hershey Sheraton, Harrisburg (specific dates TBD)

Resolution Authorizing Expenses

RESOLUTION NO. _____

WHEREAS, section 701 of the Borough Code, Act of January 28, 1988, P.L. 21, No. 10, 53 PS 45701 provides for boroughs to send delegates to the annual meeting of the Pennsylvania State Association of Boroughs and pay expenses within the limits of this section; and

WHEREAS, the Borough Council of _____, _____ County, of the Commonwealth of Pennsylvania deems education beneficial for public officials and for the health, safety and welfare of the borough citizens:

NOW, THEREFORE, be it resolved that:

The Council of the Borough _____, _____ County, of the Commonwealth of Pennsylvania, shall adopt this resolution and establish an educational/training line item in the annual municipal budget hereafter.

DULY PRESENTED and ADOPTED by the Borough Council of _____ at a regular public meeting held this _____ day of _____ (month) _____ (year).

COUNCIL OF THE BOROUGH OF _____

BY: _____
President

ATTEST: _____
Borough Secretary

Purchasing and Tax Exemptions

Borough Exemption from State Gasoline Tax

Boroughs are exempt from the twelve-cent state tax on gasoline. Exemptions may be handled in one of two ways. The first alternative is to purchase gasoline from a registered distributor without paying the tax. The second alternative, used primarily by small boroughs that use relatively little gasoline, is to purchase it from retail sources and apply to the Commonwealth for a tax refund. A claim form, available from the Board of Finance and Revenue, must be filed with the Board not later than March 31, for the previous calendar year. Gasoline purchase receipts must be filed with the claim form if the borough is not purchasing from a registered distributor. These and other regulations for liquid fuels tax refunds are presented in more detail below.

Regulations for Liquid Fuels Tax Refunds

1. The refund of the tax on liquid fuels on political subdivisions will apply only to the political subdivisions that have not been granted exemption of the tax by their registered distributor at the time of purchase.
2. Claims for refunds by political subdivisions will be made annually, ending the 31st day of December, and shall be submitted to the Board of Finance and Revenue not later than the 31st day of March of the succeeding year; and the Board shall refuse to consider any claim received or postmarked later than such date.
3. “Political subdivision” is defined in the Statutory Construction Act as, “Any county, city, borough, incorporated town, township, school district, vocational school district and county institution district.”
4. All such claims for reimbursement shall be made upon a form to be furnished by the Board of Finance and Revenue, and shall include the name and address of the claimant, the period of time and the number of gallons of liquid fuels used for which reimbursement is claimed, and a descriptive list of the political subdivision’s automotive equipment which consumed the fuel. Each such claim shall contain verification or certification that the liquid fuels for which reimbursement is claimed have been used only by the equipment of the political subdivision and that no part of such claim has been paid except as stated.
5. Each such claim shall contain a declaration that it is true and correct to the best of claimant’s knowledge and shall be signed by a responsible official of the political subdivision.
6. Every claim shall be accompanied by receipts indicating that the liquid fuels tax was paid on the liquid fuels for which reimbursement is claimed.
7. The claimant shall satisfy the Board of Finance and Revenue that he has paid the tax and that the liquid fuels have been consumed by the political subdivision.
8. The Board shall deduct the sum of One Dollar and Fifty Cents (\$1.50) which shall be considered as a filing fee for every claim for reimbursement granted. Such filing fees are hereby specifically appropriated to the Board of Finance and Revenue and to the Department of Revenue for expenses of any nature whatsoever incurred in the administration of the reimbursement provisions of this act.

9. The Board of Finance and Revenue shall refer to the Department of Revenue, for investigation, any claim for reimbursement with which they are not satisfied; and it shall be the duty of the Department of Revenue to investigate such claim and report to the Board of Finance and Revenue relative thereto.

10. The Board shall have the right in order to further substantiate the credit claim to request a sworn affidavit from the vendor stating that it has sold the specific number of gallons of motor fuel to the claimant and that the Pennsylvania Liquid Fuels Tax has been paid on such motor fuel.

For further information and claim forms, contact:

Board of Finance and Revenue
4th Floor, Riverfront Office Center
1101 South Front Street
Harrisburg, PA 17104-2516
(717) 787-6534
www.revenue.pa.gov

Oil Franchise Tax

Act 35 of 1981, known as the Oil Company Franchise Tax Act, levies a 19.2¢ franchise tax on petroleum products. The tax is paid by the oil company, or dealer, and is not paid directly by the municipality. However, the dealer will often pass on the tax to its customer in the form of a surcharge on their gas and oil bills.

The Act does not give the state authority to reimburse a municipality directly for paying the surcharge, but it does give an exemption or credit to the dealer on sales to municipalities. The Act further permits the dealer to pass on the exemption to the municipality. If the municipality has the franchise tax reflected in its bill, ask the dealer to claim the exemption and not bill for the franchise tax. Please note, the Act does not require the dealer to claim the exemption, but they may do so at their option.

For further information contact the Department of Revenue, Bureau of Accounts Settlement, Post Office Box 8057, Harrisburg, PA 17105 or call (717) 787-6534 or visit www.revenue.pa.gov.

Federal Excise Tax Exemptions

Municipalities are exempt from paying Federal Excise Tax when purchasing tires or other equipment taxed by the Federal Government. In order to avoid paying taxes at the time of purchase, municipalities need to secure a Federal Register Number from the District Director of the Internal Revenue Service.

To receive your refund of excise taxes you must file Form 8849. The form can be obtained by calling 1-800-TAX FORM (1-800-829-3676) or by writing to the nearest IRS Forms Distribution Center or by visiting the IRS at www.irs.gov. Type in Form 8849 in the search bar.

Form 8849 does not provide for a separate category on the form for state and local governments. Such governments should, therefore, after providing the necessary information of name, address, telephone number, EIN and amount of refund at the top of the form, provide their computational figures under item No. 9 on the form.

Federal Gasoline Tax and Refunds

All municipalities are required to pay a federal gas tax of .184 cents per gallon pursuant to provisions of the Tax Reform Act of 1986 (TRA).

Under TRA 1986, municipalities may file for a refund from the IRS on a quarterly basis only if the claim exceeds \$1,000. Claims under \$1,000 are to be filed on an annual basis.

TRA 1986 permits a dealer to seek a refund or tax credit instead of passing the tax on to the municipality. Municipalities must purchase gasoline with a credit card in order to qualify for this exemption.

The Budget Reconciliation Act of 1987 changed the procedures used by municipalities to purchase diesel fuel. The Act changed the point of collection for the tax from the retail to wholesale level.

In March 1988, the IRS released regulations which exempt certain state and local governments from payment of the diesel tax. Purchases must be made at the wholesale level in order to qualify for the exemption. Municipalities will not be required to register for the exemption.

For further information contact the nearest IRS district office or the Internal Revenue Service, P.O. Box 25866, Richmond, VA 23260 or visit the IRS on the web at www.irs.gov.

Cooperative Sourcing to Achieve Reduction in Spending COSTARS

COSTARS formerly known as the PA Cooperative Purchasing Program operated by the State's Department of General Services provides Local Public Procurement Units with a cost saving purchasing program. These Local Public Procurement Units are the following: political subdivisions, public authorities, any non-profit fire, rescue or ambulance company and by law "any other entity, including a council of government or an area government that expends public funds for the procurement of supplies or services."

Here are some of the benefits of joining COSTARS:

- Saving money- no specs to prepare, no advertising, printing or mailing requirements;
- Time Savings-merely issue a purchase order to the state's contract supplier;
- Variety-there is a wide variety of services and supplies and the borough may even be able to deal locally if the supplier has won the state contract;
- Quality products and services-suppliers are required to meet quality standards; and,
- Education-COSTARS provides training classes, written materials and other useful information.

What are some of the state-wide contracts available?

- Vehicles
- Road salt
- Power equipment
- Recycling materials
- Backhoes and loaders

- Gasoline and fuel oil
- Stone aggregates

Below is a list of “exclusive contracts”

- Furniture
- Food
- IT Hardware
- Copiers
- Office supplies and much more

How does our borough join COSTARS? Register online at <http://www.dgs.pa.gov/costars>. If you do not have Internet access please call COSTARS at 866-768-7827.

Sale of Surplus State Property

Maintenance property which has been declared surplus by the Commonwealth may be purchased by boroughs through this program. The surplus property comes from various departments of the state. Large items, such as heavy equipment, are stored in the facilities of those departments that declared them surplus. The Harrisburg warehouse is open daily and surplus highway equipment along with their locations are listed periodically in the Pennsylvania Bulletin. Special procedures govern the sale of highway equipment.

Administrative Agency:
State Surplus Property Division
Department of General Services
P.O. Box 1365
Harrisburg, PA 17105
(717) 787-6159, ext. 3222
www.dgs.pa.gov

Surplus Federal Property Donation

The Surplus Federal Property Donation program is administered by the Department of General Services. The Department coordinates and distributes personal property, which the Federal government has declared surplus. Information is provided on acquiring Federal surplus real property. This property is made available to only "qualified" recipients, as determined by the Department of General Services Personnel and in accordance with federal guidelines. Real property is awarded to the applicant whose program of utilization intends the greatest public benefit. Costs to purchasers vary according to size and type of property.

Administrative Agency: Federal Surplus Property Division
Department of General Services
P.O. Box 3361
Harrisburg, PA 17125-3379
717-787-6159
1-800-235-1555
www.dgs.pa.gov

Distribution Centers: Harrisburg ext. 3240/3241
Hermitage 724-983-5707

Useful Resources

PA Association of Councils of Governments

Councils of Governments (COGs) offer unique opportunities to join together and purchase products in bulk at substantial cost savings to each municipality. Using a larger amount of purchasing power, smaller boroughs that join their neighbors in purchasing items will recognize a significant savings. Even the larger boroughs that have participated notice a marked difference in the amount spent for everyday items such as anti-skid, road salt and recycling materials, as well as larger items such as maintenance and police vehicles, insurance, and street signs.

The joint purchasing program is one of the most common projects that lead municipalities into cooperative agreements, such as COGs. This can lead to other fiscally beneficial initiatives such as joint administration of services and joint bidding and contracting.

In addition to joint purchasing, sharing municipal services is an extraordinarily effective way to reduce costs. By sharing services such as police and fire departments, road maintenance services and building code inspectors, COGs have demonstrated that inter-municipal cooperation leads to tremendous cost savings while maintaining or increasing existing services to each municipality involved in the COG. Cooperation has many benefits to all involved, but none as tangible as the money saved through partnering.

It is important to note that the implementation of the Uniform Construction Code (UCC) contributed greatly to intergovernmental cooperation and the growth of COGs. The COG enables municipalities to retain local control of construction activity; in some cases the code's service can be a self-supporting COG program.

The COGs below are members of PACOG, and have successful joint purchasing, bidding, shared services and other programs in place. For contact information for a COG in your area, please visit the Pennsylvania Association of Councils of Governments (PACOG)'s web site at www.pacog.com. If you would like additional information about COGS or PACOG, please contact Linda Costa at 800-232-7722, Ext. 1028.

Pennsylvania One Call

Pennsylvania's One Call Act, Act 287 of 1974 (as amended), requires all owners and operators of underground lines in the state to belong to a one call system. The purpose of a one call system is to protect underground lines. The act requires anyone, including municipalities, using power machinery to excavate to notify a one call system three days prior to commencing work, so that owners of underground lines may mark their lines.

Pennsylvania One Call System, Inc. (POCS) is the only one call system in Pennsylvania. If your municipality excavates using power machinery, it must notify POCS three days prior to commencing excavation. The number for "dig" notifications is [800-242-1776](tel:800-242-1776). In addition, the act also requires designers, architects, and engineers preparing construction plans to request information from POCS on the location of any underground lines at the proposed site. Such requests must be made not less than ten nor more than ninety days before the final design is completed.

If your borough is required to be a member of POCS as the owner and operator of underground lines, you are still responsible for payment of the cost of the "dig" notifications you receive. As an "owner" member of POCS, you are not invoiced for any "dig" notifications you make to POCS.

Please note that under the act, underground traffic signal loops are considered "lines" and must be marked as such.

The Department of Labor and Industry is responsible for monitoring compliance with the act. L&I may issue warnings to those violating the act and may issue a summary offense citation of not less than \$100 not more than \$500 to any person receiving more than three warnings in a year.

All boroughs are reminded that failure to join POCS is a civil offense punishable by a fine of not more than \$500 for each day of the offense. Other violations of the act, including failure to notify POCS prior to excavation, can result in a fine of not less than \$2,500 nor more than \$25,000 or imprisonment for not more than 90 days, or both.

If your borough should belong to POCS, or if you are unsure as to whether or not your borough should be a member, please contact POCS at 1-800-248-1786 for the name and number of your borough's liaison representative.

Act 181 of 2006 (SB 1104) amended the PA One Call Act. Specifically, the bill extends the sunset date for the Pennsylvania One Call System until December 31, 2016, and makes numerous changes to the Underground Utility Line Protection Law (Act 287 of 1984). The act clarifies that municipalities are exempt from One Call requirements when performing minor routine maintenance on local roads at a depth of less than 18 inches, measured from the edge of the cartway or the outer edge of an improved shoulder.

This act also clarified that unexposed storm drainage facilities and traffic loops that are not clearly visible are considered facilities. This means that municipalities that only own exposed storm drainage facilities and clearly visible traffic loops would not be required to be facility owners in the One Call System.

Resources available from PSAB

Many of our ordinances are available online at our web site: www.boroughs.org. Click on “Sample Ordinances” under “Research” on the home page and type in a description of the type of ordinance that you are looking for. If the subject of the ordinance does not appear, please contact the research department at PSAB, 2941 North Front Street, Harrisburg, PA 17110 or call 800-232-7722, Ext. 1018. Please limit requests to five subjects at a time.

Adult Entertainment

Air Pollution

Open Burning

Ambulance

Amusements

Admissions

Mechanical Devices

Animals

Cats

Exotic

Nuisances

Attorney Fees for Municipal Claims

Auditors

- Independent

Bed/Breakfast Establishments

Bicycles

- Motorized Scooters

Billboards - Digital

Block Parties

Buildings

- Dangerous Structures
- Inspection
- Occupancy

Cable TV

- Franchises
- Rate Regulations

Carbon Monoxide Detectors

Cellular Towers

Code Enforcement

Compensation

- Elected Officials

Construction Code

Councils of Government

Crossing Guards

Cruising

Curfew

- Dallas, TX -Upheld by U.S. Supreme Court
- Charlottesville, VA - upheld by U.S. Supreme Court

Cyber Cafes

Daycare

Demolition Permits

Digital Billboards

Donation Boxes

Driveways

Dumpsters

Emergencies

- Mutual Aid Agreement
- Responding to Emergencies

Erosion

Explosives

Fences

Fines

Fire

- Fire Escrow Law
- Fire Protection
- Fire Marshal
- Flammable Liquids

Fireworks

Flood

- Flood Plain Management

Garage Sales

Grass & Weeds

Grates and Grills

Health

- Food Establishment
- Massage Parlors
- Tattoo Parlors

Heating Equipment - Portable

Historical Commission

House Numbering

Industrial/Hazardous Waste

- Prohibiting Discharge Into Sewers
- Hazardous Release
- Transportation of Hazardous Waste

Intergovernmental Cooperation

Junk Yards

Landlord/Tenant Registration

LERTA

Licenses & Permits

Liquor License Transfers

Littering

Local Services Tax
Lock Boxes
Mailboxes
Manager
Massage Parlor
News racks

- Lakewood v. Plain Dealer (U.S. Supreme Court Decision)
- Newsrack ordinance from Glendale, CA

Noise

- Car Speakers
- Equipment

Non Stormwater Discharge
Nuisance

- Attractive Nuisances
- Exterior Lighting
- Loitering for Drug Sales
- Peace & Good Order

Obscene Materials
Open Containers
Paint Balls
Panhandling
Parades
Parking

- Handicapped
- Oversized Vehicles
- Residential Permit Parking

Parks & Recreation
Permits & Licenses

- Building Permits

Planning Commission
Police - Cooperation
Portable Storage Units (PODS)
Property Maintenance
Railroad Speed Limits
Real Estate Transfer Tax

- Act 77 of 1986

Reapportionment
Recycling
Rewards
Rodents
School Crossing Guards
Secretary-Treasurer

- Combining Offices

Sewers

- Sewer Inspections

Sewer Rates
Shade Trees Commission
Sidewalks & Curbs
Sidewalks & Trees
Signs
Skateboards
Smoke Detectors
Snow Emergency Route
Snow Removal

- Parking Regulations
- Sidewalks

Solar Energy
Solid Waste

- Refuse Containers

Storage Tanks
Streets

- Acceptance
- Excavations
- Naming
- Obstructions
- Paving
- Vacating

Subdivisions
Swimming Pools
Tax Collector
Tax - Business Privilege
Tax - Mechanical Devices
Tax - Mercantile License (1967)
Tax - Occupation
Tax - Occupational Privilege
Tax - Per Capita (1973)
Tax - Real Property Transfer
Timbering/Logging
Traditional Neighborhood Overlay
Traffic
Use of Borough Property by Groups
Vandalism
Vector Control (1972)
Vehicles - Abandoned
Vehicles - Impounded
Vehicles - Weight
Water

- Drought
- Stormwater
- Wells

Windmill Energy
Wood Burning Stoves
Zoning

- Administration
- Adult Communities
- Adult Uses
- Group Homes

- Movable Basketball Hoop
- Student Housing
- Traditional Neighborhoods

Sample Resolutions Available

PSAB's research department has a small sample of resolutions available from the research department. Contact Shelley Houk at shouk@boroughs.org or call 800-232-7722, Ext. 1018.

They are as follows:

- Appointing a candidate to fill a vacancy in elected office
- Appointing a borough secretary
- Authorizing a policy to allow participation in a meeting via a telecommunications device
- Honoring a resident on her 100th birthday
- Honoring a volunteer
- Recognizing a volunteer fire company for its excellence
- Selling borough personal property valued at less than \$1,000
- Honoring a soldier who was killed in action

Laws Concerning Borough Contracts and Selling of Borough Property

Award and Execution of Public Contracts Bid Advertisements and Non-Receipt of Bids

Trade and Commerce

73 PS §1641. Nonreceipt of bids

(a) Purchase of goods.-When a political subdivision, municipal authority or transportation authority advertises for bids on an item and no bids are received, the political subdivision, municipal authority or transportation authority shall rebid the item. If again such bids are not received, the political subdivision, municipal authority or transportation authority may purchase or enter into contracts for the purchase of any item where no bids are received from suppliers for the item within 45 days of the date of second advertisement therefor.

(b) Sale of property. When a political subdivision, municipality authority or transportation authority is required to advertise for bids in order to sell real or personal property and no bids are received, the political subdivision, municipality authority or transportation authority may proceed as follows:

- (1) The political subdivision, municipality authority, transportation authority may advertise for bids a second time.
- (2) If no bids are received within 15 days of the second advertisement, the political subdivision or transportation authority may initiate negotiations for a private sale of the property, taking into consideration its fair market value.
- (3) The political subdivision, municipality authority or transportation authority must publicly announce the identity of the parties, the sale price and a summary of the other terms and conditions relating to any proposed private sale at a regular or special meeting of its governing body.
- (4) After the public announcement of the sale is made in accordance with paragraph (3), at least 30 days must elapse before a political subdivision, municipality authority or transportation authority may authorize the private sale in accordance with this subsection.

Procedures for Selling Real Property

The borough has a parcel of land that it wants to sell and council knows that the property owner contiguous to the parcel wants to purchase it. Can they just negotiate the sale without advertising for bids? No. According to section 1201 (4) (i) of the Borough Code council must hire a qualified real estate appraiser to determine the property's fair market value. (This valuation is not a public record while the procedure is ongoing). And too, the borough has no statutory authority to hire a real estate agent to sell the property.

If the appraisal is more than \$1500 then council must advertise for bids or a public auction with a starting price at the fair market value. These provisions state that the sale must be advertised once no less than 10 days prior to the date fixed for the opening of bids or public auction, and such date for the opening of bids or public auction shall be announced in such advertisement. (Please note that borough real property cannot be sold on line).

The bid award is made at a duly advertised regular or special meeting to the highest bidder. The sale is contingent upon the full purchase price being paid in full no later than 60 days. Council shall have the right to reject any bids that are less than the fair market value. If the appraisal of the real property is \$1500 or less then council may sell it without competitive bidding.

What if the borough advertises for bids and there are no bids submitted?

There is a state law that requires the borough to rebid a second time and if no bids are received within 15 days of the second advertisement, then it can negotiate a private sale with a buyer and shall announce all details including buyer's identity and the sale price. The sale cannot be completed until 30 days has elapsed. This information is found at 73 PS 1641(b) (1-4).

What if a low bid is submitted, does this mean a "no bids received" situation? No. This would represent a bid even if it is below fair market value. Council must remember that it is the steward of the borough's finances and must obtain at a minimum the fair market value. Failure to do so could lead to a surcharge against council.

Selling Personal Property

If the borough wants to sell an old pickup truck or an old desk, council must estimate the value of the personal property. If the value is \$1,000 or less than it can sell by passing a resolution stating that the item or items are worth less than \$1,000 (a copy of a sample resolution is provided).

When the personal property is valued at more than \$1,000 then it must advertise for bids in a newspaper of general circulation and the date for the opening of bids shall be stated in the advertisement. Council now has the authority to post the item on an online auction site such as E-bay provided it is announced in the ad that it will also be advertised on the Internet site. The council is required to sell to the best responsible bidder.

If no bids are received for the items then council would comply with the same provisions set forth in 73 PS 1641 (b) (1-4) per the sale of real property.

What if a member of council wants to purchase the personal property or real property that official needs to write to the State Ethics Commission to determine what the legal actions are necessary since that official would be privy to “inside” information.

Using the Electronic Bid Law

The process for selling a piece of personal property online will involve a few important steps. First, the borough council would need to pass an ordinance or resolution approving the sale of the property. Second, as with regular sales, you must determine the fair market value of the personal property. If the value is over \$1,000, the provisions of Section 1201 (4) (ii) are mandatory. When using the online auction option you must still advertise the auction at least once in a newspaper of general circulation in the borough. The notice must include the Internet address or means of accessing the electronic auction and the date, time and duration of the electronic auction. It must be published in the newspaper of general circulation at least 10 days prior to the start of the online auction.

When choosing your online auction company you must make sure it meets a few important criteria to qualify for the new law. The auction site must allow bidders to electronically submit bids, and bidders must be able to see the high bidder’s bid or their own bid rank. Bidders must be able to increase their bids during the electronic auction.

The new law specifies when the electronic auction is finished the highest bidder must pay immediately or at a reasonable time determined by borough council. If shipping charges are necessary, the winning bidder and not the borough must pay for the shipping charges. The new law also provides that the record of the electronic auction must be available for public inspection.

Sample Resolution to Sell Personal Property

RESOLUTION NO. _____
_____ COUNTY, PENNSYLVANIA

A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF A PROCEDURE GOVERNING THE SALE OF PERSONAL PROPERTY VALUED AT LESS THAN ONE THOUSAND DOLLARS (\$1,000).

WHEREAS, section 101 (4) of the Borough Code, 53 P.S. 46201 (4) authorizes the Council of _____ Borough to establish a procedure for the sale of the surplus personal property which has an estimated value of less than One Thousand Dollars (\$1,000) and

WHEREAS, the Council of _____ Borough now desires to establish such a procedure.

NOW, THEREFORE, be it resolved that _____ Borough Council hereby authorizes the Borough Manager (or secretary) to sell the personal property of the Borough which has an estimated value of less than One Thousand Dollars (\$1,000) pursuant to the following procedure.

1. The Borough Manager (Secretary) shall determine the value of the subject personal property (the "Property") by obtaining from five (5) vendors dealing in the Property, or goods substantially similar to the Property, in their regular course of business.

2. The second lowest estimate shall constitute the minimum permissible sale price for the Property (the "Minimum Price").

3. The Borough Manager (Secretary) may then solicit and accept written offers of purchase at a price in excess of the Minimum Price (individually referred to as a "Purchase Offer").

4. After three (3) consecutive business days following receipt of the most recent Purchase offer, the Borough Manager (or Secretary) may accept the highest Purchase Offer received to that date, and sell the Property with or without prior approval of Council. In the alternative, the Borough Manager may reject all Purchase Offers or other offers at any time.

5. The Borough Manager (Secretary) shall report such sale at the Council Meeting immediately subsequent to such sale.

DULY PRESENTED and ADOPTED by the Borough Council of _____, _____ County, Pennsylvania, at the public meeting held this _____ day of _____ (month) _____ (year).