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Part 1

Per Capita Tax

§101. Levy of Tax.

A per capita tax of five dollars (\$5.00) per annum be, and the same is hereby levied and assessed upon each resident or inhabitant, of the age of twenty-one (21) years or over, within the limits of the Borough of Stroudsburg, for the year ending December 31, 1967, and for each fiscal year thereafter, which tax shall be in addition to all other taxes levied and assessed by the Borough of Stroudsburg pursuant to any other laws of the Commonwealth of Pennsylvania. (Ordinance 481, March 1, 1967, §1; as amended by Ordinance 491, May 1, 1968, §2)

§102. Duty of Tax Collector.

Said tax shall be collected by the duly elected or appointed tax collector of borough taxes for the Borough of Stroudsburg in the same manner and at the same time or times as other borough taxes are collected, as provided by the "Local Tax Collection Law", of 1965, as amended and supplemented. (Ordinance 481, March 1, 1967, §2; as amended by Ordinance 599, December 19, 1983)

§103. Bond of Tax Collector.

The said tax collector shall give bond secured and conditioned for the collecting, accounting for and paying over of such taxes in the same manner as provided for other borough taxes. (Ordinance 481, March 1, 1967, §3)

§104. Tax Duplicate to Constitute Warrant for Collection.

The entry of said per capita tax in the tax duplicate and issuance of said duplicate to the tax collector shall constitute his warrant for the collection of the per capita tax hereby levied and assessed. Such warrant shall remain in force until the complete settlement of all taxes in such duplicate as provided by "Local Collection Law" of 1945, as amended and supplemented. (Ordinance 481, March 1, 1967, §4)

§105. Expenses of Collection.

The expenses of the collection of the per capita tax hereby levied and assessed shall be paid and allowed as provided in the aforesaid "Local Tax Enabling Act" of 1965, as amended and supplemented. The tax collector, as compensation for the collection of said taxes, shall receive the same commission as fixed by the Borough of Stroudsburg for the

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collection of the other borough taxes. (Ordinance 481, March 1, 1967, §5; as amended by Ordinance 599, December 19, 1983)

§106. Notice to Taxpayers.

The tax collector shall give notice to every taxable person whose name appears on the tax duplicate at the same time and in the same manner as provided by "Local Tax Enabling Act" of 1965, as amended and supplemented. Failure to receive such notice shall not relieve any taxpayer from the payment of the tax hereby levied and assessed, and such taxpayer shall be charged with the said tax as though he had received notice. (Ordinance 481, March 1, 1967, §6; as amended by Ordinance 599, December 19, 1983)

§107. Additions to Tax Assessment List and Duplicates.

In case the tax collector shall at any time find, within the limits of the Borough of Stroudsburg, any resident or inhabitant of the age of twenty one (21) years or over, whose name does not appear upon the duplicate of the Borough of Stroudsburg, he shall report the name of such person forthwith to the assessor of the Borough. The assessor shall thereupon promptly certify the said name to the Borough of Stroudsburg, which shall then promptly certify such name to the tax collector reporting such name. If the Council of the Borough of Stroudsburg shall at any time find, within said Borough, any resident or inhabitant above the age of twenty one (21) years whose name does not appear upon the duplicate of the Borough of Stroudsburg, the Borough of Stroudsburg may, by resolution, determine that the name of such person belongs on the tax assessment list and on the tax duplicate and certify the same to the tax collector with the direction to collect the proper taxes from such person for the current year and for the preceding year or the two preceding years, if he was liable for such taxes under existing law. The Council of the Borough of Stroudsburg shall at the same time certify such name to the County Board for the Assessment and Revision of Taxes or other authority charged with the duty of making the assessment used by the Borough of Stroudsburg.

Upon receiving any name as aforesaid, the tax collector shall add the name and assessment of such person to the duplicate of the Borough of Stroudsburg and proceed to collect the tax or taxes assessed against such person as herein provided.

(Ordinance 481, March 1, 1967, §7)

§108. Power of Tax Collector to Levy Delinquent Tax Plus Penalty.

The tax collector shall have power, in case of the neglect or refusal of any resident or inhabitant within the limits of the Borough of Stroudsburg to make payment of the tax hereby levied and assessed against him, after two (2) months from the date of the tax notice, to levy the amount of such tax, any penalty due thereon, and costs, by distress and sale of the goods and chattels of such delinquent, in accordance with the provisions

of "Local Tax Collection Law" of 1945, as amended and supplemented. (Ordinance 481, March 1, 1967, §8)

§109. Power to Collect Tax from Employers.

The tax collector is hereby authorized and empowered to demand, receive and collect the amount of said tax from all corporations, political subdivisions, associations, companies, firms or individuals, employing any person or persons owing the per capita tax hereby levied and assessed, or whose wife owes such per capita tax, or having in possession unpaid commissions or earnings belonging to any person or persons owing such per capita tax, or whose wife owes such per capita tax, upon the presentation of a written notice and demand containing the name of the taxable or the husband thereof, and the amount of tax due.

Upon the presentation of such written notice and demand, it shall be the duty of such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees, then owing or that shall within sixty (60) days thereafter become due, or from any unpaid commission or earnings of any such taxable in its or his possession or that shall within sixty (60) days thereafter become due, or from any unpaid commission or earnings of any such taxable in its or his possession or that shall within sixty (60) days thereafter come into its or his possession, a sum sufficient to pay the respective amount of per capita tax, and costs, shown upon the written notice and demand, and to pay the same to the tax collector of the Borough of Stroudsburg within sixty (60) days after such notice shall have been given; such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transaction, not exceeding two percentum (2%) of the amount of money so collected and paid over to the tax collector. Upon the failure of any such corporation, political subdivision, association, company, firm or individual to deduct the amount of such taxes or to pay the same over to the tax collector, less the cost of bookkeeping involved in such transaction, as herein provided, within the time hereby required, such corporation, political subdivision, association, company, firm or individual shall forfeit and pay the amount of such tax for each such taxable whose taxes are not withheld and paid over or that are withheld and not paid over, together with a penalty of ten percentum (10%) added thereto to be recovered by an action of assumpsit in a suit to be instituted by the tax collector on behalf of the Borough of Stroudsburg, as debts of like amount are now by law recoverable, except that such persons shall not have the benefit of any stay of execution or exemption law.

(Ordinance 481, March 1, 1967, §9)

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§110. Tax Collector to Keep Records; Remit Taxes to Treasurer.

The tax collector shall keep a correct account of all moneys collected by him under the authority of this ordinance. He shall mark "paid" on each duplicate at the name of each taxable person, and the date on which payment was made. The tax collector shall remit said taxes to the treasurer of the Borough of Stroudsburg by a separate statement at the same time as other taxes are remitted to the said treasurer. (Ordinance 481, March 1, 1967, §10)

§111. Discount; Penalty.

All taxpayers subject to the payment of the per capita tax hereby levied and assessed shall be entitled to a discount of two percentum (2%) from the amount of such tax upon making payment of the whole amount thereof within two (2) months after the date of the tax notice. All taxpayers, who shall fail to make payment of the per capita tax charged against them for four (4) months after the date of the tax notice, shall be charged a penalty of five percentum (5%) which penalty shall be added to the taxes by the tax collector and be collected by him, (Ordinance 481, March 1, 1967, §11)

§112. Powers and Duties Imposed on Tax Collector by Law.

It is hereby expressly declared to be the intent of the Council to confer and impose upon the duly elected or appointed assessors and tax collector of the Borough of Stroudsburg, in the assessment and collection of the per capita tax hereby levied and assessed, all of the rights, powers, duties and obligations which are conferred or imposed upon borough assessors or collectors of borough taxes by any existing law or laws of the Commonwealth of Pennsylvania, together with such amendments and supplements thereto as may be made from time to time, insofar as the same may relate to the said per capita tax. It is further declared not to be the intent of this ordinance to limit the tax collector, in the collection of the per capita tax hereby levied and assessed, to the provisions of "Local Tax Enabling Act" of 1965, as amended and supplemented, but it is the intent to confer upon the tax collector all the powers and rights, together with all the duties and obligations, conferred upon or granted to borough tax collectors by any other law or laws of the Commonwealth of Pennsylvania. (Ordinance 481, March 1, 1967, §12; as amended by Ordinance 599, December 19, 1983)

Part 2

Realty Transfer Tax

§201. Imposition of Tax.

The Borough of Stroudsburg adopts the provisions of Article XI-D of the Tax Reform Code of 1971 and imposes a realty transfer tax as authorized under that Article, subject to the rate limitations therein. The tax imposed under this Section shall be at the rate of 1%.

(Ord. 876, 9/5/2007)

§202. Administration.

The tax imposed under §201 and all applicable interest and penalties shall be administered, collected, and enforced under the Act of December 31, 1965 (P.L. 1257, No. 511), as amended, known as the "Local Tax Enabling Act," provided that, if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Borough of Stroudsburg, pursuant to Section 1102-D of the Tax Reform Code of 1971 (72 P.S. §8102-D), authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect, and enforce the tax, interest, and penalties.

(Ord. 876, 9/5/2007)

§203. Interest.

Any tax imposed under §201 that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. §7101 et seq.), as amended, known as the "Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. §806), as amended, known as the "Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

(Ord. 876, 9/5/2007)

§204. Repealer.

1. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Part are hereby repealed.

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2. The repealed ordinances or parts thereof remain effective for documents that became subject to tax prior to the effective date of this Part.

(Ord. 876, 9/5/2007)

§205. Effective Date.

The provisions of this Part shall become effective on and be applicable to any document made, executed, delivered, accepted, or presented for recording on or after September 6, 2007.

(Ord. 876, 9/5/2007)

Part 3

Local Services Tax

§301. Short Title.

This Part 3 shall be known and may be cited as the “Borough of Stroudsburg Local Services Tax Ordinance.”

(Ord. 882, 12/19/2007)

§302. Definitions.

The following words and phrases, when used in this Part, shall have the meanings ascribed to them in this Section, except where the context or language clearly indicates or requires a different meaning:

BOROUGH OF STROUDSBURG or BOROUGH – the area within the corporate limits of the Borough of Stroudsburg.

COLLECTOR – the person, public employee or private agency designated by the Borough of Stroudsburg to collect and administer the tax herein imposed.

DCED – the Department of Community and Economic Development of the Commonwealth of Pennsylvania.

EARNED INCOME – compensation, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257, §13, as amended, 53 P.S. §6913, as amended.

EMPLOYER – an individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.

HE, HIS or HIM – indicates the singular and plural number, as well as male, female and neuter genders.

INDIVIDUAL – any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Borough of Stroudsburg.

NET PROFITS – the net income from the operation of a business, profession, or other activity, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257, §13, as amended, 53 P.S. §6913, as amended.

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OCCUPATION – any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the Borough of Stroudsburg for which compensation is charged or received, whether by means of salary, wages, commission or fees for services rendered.

TAX – the local services tax at the rate fixed in §303 of this Part.

TAX YEAR – the period from January 1 until December 31 in any year; a calendar year.

(Ord. 882, 12/19/2007)

§303. Levy of Tax.

1. For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008, upon the privilege of engaging in an occupation with a primary place of employment within the Borough of Stroudsburg during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$52, assessed on a pro-rata basis, in accordance with the provisions of this Part.
2. This tax may be used solely for the following purposes, as the same may be allocated by the Borough Council from time to time:
 - A. Emergency services, which shall include emergency medical services, police services and/or fire services;
 - B. Road construction and/or maintenance;
 - C. Reduction of property taxes; or
 - D. Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S.A., Chapter 85, Subchapter F (relating to homestead property exclusion).
3. The Borough shall use no less than 25% of the funds derived from the tax for emergency services.
4. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough of Stroudsburg.
5. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

(Ord. 882, 12/19/2007)

§304. Exemptions and Refunds.

1. Exemption. Any person whose total earned income and net profits from all sources within the Borough is less than \$12,000 for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:
 - A. Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total 100% disability.
 - B. Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subsection, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.
2. Procedure to Claim Exemption.
 - A. A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the Borough and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of less than \$12,000 in the calendar year for which the exemption certificate is filed. In the event the Borough utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the Borough for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the Borough or except as required by Subsection 2B, the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring.
 - B. With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the Borough that the person has received earned income and net profits from all sources within the Borough equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned in-

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come within the Borough in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person under Subsection 2C.

- C. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under Subsection 2B, the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under Subsection 2B, a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per-payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this subsection is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the Borough may pursue collection under this Part.
 - D. Except as provided in Subsection 2B, it is the intent of this subsection that employers shall not be responsible for investigating exception certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.
3. Refunds. The Borough Manager, in consultation with the collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments.¹ Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The Borough Manager or the collector shall determine eligibility for exemption and provide refunds to exempt persons.

(Ord. 882, 12/19/2007)

§305. Duty of Employers to Collect.

- 1. Each employer within the Borough of Stroudsburg, as well as those employers situated outside the Borough of Stroudsburg but who engage in business within the Borough of Stroudsburg, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the Borough of Stroudsburg and making a return and payment thereof to the collector.

¹ Note: With respect to refunds, see 53 Pa.C.S.A. §8425; with respect to interest, see 53 Pa.C.S.A. §8426.

Further, each employer is hereby authorized to deduct this tax from each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the Borough of Stroudsburg.

2. A person subject to the tax shall be assessed by the employer a pro-rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro-rata share of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro-rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll-period basis for each payroll period in which the person is engaging in an occupation, except as provided in Subsection 4 of this Section. For purposes of this subsection, "combined rate" shall mean the aggregate annual rate of the tax levied by the school district and the Borough.
3. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
4. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.
5. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The Borough shall provide a taxpayer a receipt of payment upon request by the taxpayer.
6. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the Borough if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Subsection 2 of §304 of this Part and this Section and remits the amount so withheld in accordance with this Part.
7. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of the calendar year.

(Ord. 882, 12/19/2007)

§306. Returns.

Each employer shall prepare and file a return, showing a computation of the tax, on forms to be supplied to the employer by the collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this Part, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

(Ord. 882, 12/19/2007)

§307. Dates for Determining Tax Liability and Payment.

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the collector on or before the 30th day following the end of each calendar quarter of each such tax year.

(Ord. 882, 12/19/2007)

§308. Self-Employed Individuals.

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the Borough of Stroudsburg shall be required to comply with this Part and pay the pro-rata portion of the tax due to the collector on or before the 30th day following the end of each quarter.

(Ord. 882, 12/19/2007)

§309. Individuals Engaged in More than One Occupation or Employed in More than One Political Subdivision.

1. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:
 - A. First, the political subdivision in which a person maintains his or her principal office or is principally employed.

- B. Second, the political subdivision in which the person resides and works, if the tax is levied by that political subdivision.
 - C. Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.
2. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

(Ord. 882, 12/19/2007)

§310. Nonresidents Subject to Tax.

All employers and self-employed individuals residing or having their places of business outside of the Borough of Stroudsburg but who perform services of any type or kind or engage in any occupation or profession within the Borough of Stroudsburg do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Part with the same force and effect as though they were residents of the Borough of Stroudsburg. Further, any individual engaged in an occupation within the Borough of Stroudsburg and an employee of a nonresidential employer may, for the purpose of this Part, be considered a self-employed person; and in the event his or her tax is not paid, the Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

(Ord. 882, 12/19/2007)

§311. Administration of Tax.

- 1. The collector shall be appointed by resolution of the Borough Council. It shall be the duty of the collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received.
- 2. The collector is hereby charged with the administration and enforcement of this Part and is hereby charged and empowered, subject to Borough Council approval, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination of payroll records of any employer subject to this Part, the examination and correction of any return made in compliance with this Part and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the collector shall have the right to appeal to the Court of Common Pleas of Cumberland County as in other cases provided.

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3. The collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the collector the means, facilities and opportunity for such examination.

(Ord. 882, 12/19/2007)

§312. Suits for Collection.

1. In the event that any tax under this Part remains due or unpaid 30 days after the due dates above set forth, the collector may sue for the recovery of any such tax due or unpaid under this Part, together with interest and penalty.
2. If, for any reason, the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated, beginning with the due date of the tax, and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

(Ord. 882, 12/19/2007)

§313. Violations and Penalties.

Whoever makes any false or untrue statement on any return required by this Part, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this Part shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this Part.

(Ord. 882, 12/19/2007)

§314. Interpretation.

1. Nothing contained in this Part shall be construed to empower the Borough of Stroudsburg to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Borough under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

2. If the tax hereby imposed under the provisions of this Part shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

(Ord. 882, 12/19/2007)

Part 4

Earned Income Tax

§401. Definitions.

The following words and phrases when used in this Part 4 shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning.

ASSOCIATION – a partnership, limited partnership, or any other unincorporated group of two or more persons.

BUSINESS – an enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association or any other entity.

CORPORATION – a corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency.

CURRENT YEAR – the calendar year for which the tax is levied; provided, however, as used herein "current year" shall during 1968 refer only to the period beginning July 1, 1968, and ending December 1, 1968.

DOMICILE – the place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses, or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME – salaries, wages, commissions, bonuses, incentive payments, fees, tips, and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or in property; not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement of payments arising under workmen's compensation acts, occupational disease acts and similar legislation, or payments commonly recognized as old age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment or payments commonly known as public assistance, or unemployment compensation payments by any govern-

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mental agency or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs; including, but not limited to, programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.

INCOME TAX OFFICER or OFFICER – a person, public employee or private agency designated by governing body to collect and administer the tax on earned income and net profits.

EMPLOYER – a person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation.

GOVERNING BODY – the Borough Council of the Borough of Stroudsburg, Monroe County, Pennsylvania.

NET PROFITS – the net income from the operation of a business, profession, or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession, or other activity, but without deduction of taxes based on income.

NONRESIDENT – a person, partnership, association, or other entity domiciled outside the taxing district.

PERSON or INDIVIDUAL – a natural person.

PRECEDING YEAR – the calendar year before the current year.

RESIDENT – a person, partnership, association or other entity domiciled in the taxing district.

SUCCEEDING YEAR – the calendar year following the current year.

TAXING DISTRICT or TAXING JURISDICTION – the Borough of Stroudsburg, Monroe County, Pennsylvania.

TAXPAYER – a person, partnership, association, or any other entity, required hereunder to file a return of earned income or net profits, or to pay a tax thereon.

(Ordinance 493, May 8, 1968, Article 1)

§402. Imposition and Rate of Tax.

1. A tax for general revenue purposes is hereby imposed at the rate of one percent (1%) on the following:

- A. Earned income received in the current year by residents of the taxing district.
 - B. Earned income received in the current year within the taxing district by nonresidents thereof.
 - C. Net profits earned during the current year by residents of the taxing district.
 - D. Net profits earned during the current year within the taxing district by nonresidents thereof.
2. The tax levied under this Part 4 shall be applicable to earned income received and to net profits earned in the period beginning January 1, of the current year, and ending December 31, of the current year or for taxpayer fiscal years beginning in the current year, except that taxes imposed for 1968 shall become effective July 1, 1968, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed. Regardless of the fiscal year of any taxpayer, such taxpayer shall be liable for payment of the tax hereby imposed from July 1, 1968. As used herein, the term "current year" shall during 1968 refer only to the period beginning July 1, 1968 and ending December 31, 1968.

(Ordinance 493, May 8, 1968, Article 2)

§403. Declarations, Payment of Tax and Returns.

- 1. Net profits – Except during 1968 every taxpayer making net profits shall on or before April 15 of the current year, make and file with the officer on a form prescribed or approved by the officer, a declaration of his estimated net profits during the period beginning January 1, and ending December 31, of the current year, and pay to the officer in four equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration, and the other installments on or before June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, respectively.
- 2. Except during 1968, any taxpayer who first anticipates any net profit after April 15 of the current year, shall make and file the declaration hereinabove required on or before June 15 of the current year, September 15 of the current year, or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, any pay to the officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.
- 3. For the year 1968, on or before September 15 every taxpayer making net profits shall make and file with the officer on a form prescribed or approved by the officer a declaration of his estimated net profits during the period beginning July 1, and

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ending December 31, 1968, and pay to the officer in two equal installments the tax due thereon as follows: the first installment on or before September 15, 1968, and the second installment on or before January 15, 1969.

4. For the year 1968, any taxpayer who first anticipates any net profits after September 15, 1968, shall make and file the declaration hereinabove required on or before January 15, 1969, and pay to the officer the tax due thereon on or before January 15, 1969.
5. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of net profits earned during the period beginning January 1 of the current year, (July 1 in the year 1968) and ending December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the officer the balance of tax due or shall make demand for refund or credit in the case of overpayment.
6. Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the officer on or before January 31 of the succeeding year, the final return as hereinabove requested.
7. The officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.
8. Every taxpayer who discontinues business prior to December 31, of the current year, shall, within thirty (30) days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.
9. Earned income. Every taxpayer shall, on or before April 15, of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of earned income received during the period beginning January 1, of the current year (July 1 in the year 1968), and ending December 31, of the current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
10. Except during 1968, every taxpayer who is employed for a salary, wage, commission, or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the officer on a form prescribed or approved by the officer, a quarterly return on or before April 30, of the current year, July 31, of the current year, October 31, of the current year and January 31, of the succeeding year, setting forth the aggregate

amount of earned income not subject to withholding by him during the three-month periods ending March 31, of the current year, June 30, of the current year, September 30, of the current year, and December 31, of the current year, respectively, and subject to the tax, together with such other information as the officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the officer the amount of tax shown as due thereon.

11. For the short year beginning July 1, 1968, and ending December 31, 1968, the aforesaid requirements pertaining to the filing of quarterly returns and to the payment of tax due thereon, the filing and payment of dates shall be October 31, 1968, and January 31, 1969.

(Ordinance 493, May 8, 1968, Article 3)

§404. Collection at Source.

1. Every employer having an office, factory, workshop, branch, or warehouse or other place of business within the taxing jurisdiction who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within fifteen (15) days after becoming an employer, or within fifteen (15) days after the effective date of this ordinance, whichever shall first occur, register with the officer his name and address and such other information as the officer may require.
2. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the taxing jurisdiction who employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof, the tax imposed by this ordinance on the earned income due to his employee or employees, and shall, on or before October 31, 1968, January 31, 1969, and thereafter on or before April 30, of the current year, July 31, of the current year, October 31, of the current year, and January 31, of the succeeding year, file a return and pay to the officer the amount of taxes deducted during the preceding three (3) month periods ending September 30, 1968, December 31, 1968, and thereafter ending March 31, of the current year, June 30, of the current year, September 30, of the current year, and December 31, of the current year, respectively. Such return unless otherwise agreed upon between the officer and employer shall show the name and social security number of each such employee, the earned income of such employee during such preceding three (3) month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total earned income of all such employees during such preceding three (3) month period, and the total tax deducted therefrom and paid with the return.
3. Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the

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officer on or before the last day of the month succeeding the month for which the tax was withheld.

4. On or before February 28, of the succeeding year, every employer shall file with the officer:
 - A. An annual return showing the total amount of earned income paid, the total amount of tax deducted, and the total amount of tax paid to the officer for the period beginning January 1 of the current year (July 1 in the year 1968), and ending December 31, of the current year.
 - B. A return withholding statement for each employee employed during all or any part of the period beginning January 1 of the current year (July 1 in the year 1968), and ending December 31, of the current year, setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, the amount of tax paid to the officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.
5. Every employer who discontinues business prior to December 31, of the current year, shall, within thirty (30) days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.
6. Except as otherwise provided in §409 any employer who omits to make the deductions required by this section shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.
7. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of the ordinance relating to the filing of declarations and returns.
8. If an employer makes a deduction of tax as required by this ordinance, the amount deducted shall constitute in the hands of such employer a trust fund held for the account of the governing body as beneficial owner and the employee from whose earned income such tax was deducted shall be deemed to have paid such tax.

(Ordinance 493, May 8, 1968, Article 4)

§405. Powers and Duties of Officer.

1. It shall be the duty of the officer to collect and receive the taxes, fines and penalties imposed by this Part 4. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and if paid

by such taxpayer or employer in respect of another taxpayer, the name of such other taxpayer, and the date of such receipt.

2. The officer is hereby charged with the administration and enforcement of the provisions of this Part 4 and is hereby empowered to prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of the part, including provisions for the reexamination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in cases of overpayment, for any period of time not to exceed six (6) years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of the ordinance. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution by the governing body. A copy of such rules and regulations currently in force shall be available for public inspection.
3. The officer shall refund, on petition of, and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.
4. The officer and agents designated by him are hereby authorized to examine the books, papers, and records of any employer or of any taxpayer or of any person whom the officer reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the officer reasonably believes to be an employer, or taxpayer, is hereby directed and required to give to the officer, or to any agent designated by him, the means, facilities and opportunity for such examination and investigations, as are hereby authorized.
5. Any information gained by the officer, his agents or by any other official or agent of the taxing district, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Part 4 shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.
6. The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

(Ordinance 493, May 8, 1968, Article 5)

§406. Suit for Collection of Tax.

1. The officer may sue in the name of the taxing district for the recovery of taxes due and unpaid under this Part 4.

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2. Any suit brought to recover the tax imposed by this Part 4 shall be begun within three (3) years after such tax is due, or within three (3) years after the declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:
 - A. Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under the provisions of this Part 4, there shall be no limitation.
 - B. Where an examination of the declaration or return filed by any person, or of other evidence relating to such declaration or return in the possession of the officer, reveals a fraudulent evasion of taxes, there shall be no limitation.
 - C. In the case of substantial understatement or tax liability of twenty-five percent (25%) or more, and no fraud, suit shall be begun within six (6) years.
 - D. Where any person has deducted taxes under the provisions of this Part 4, and has failed to pay the amounts so deducted to the officer, or where any person has willfully failed or omitted to make the deductions required by this section there shall be no limitations.
 - E. This section shall not be construed to limit the governing body from recovering delinquent taxes by any other means provided by this Part 4.
3. The officer may sue for recovery of an erroneous refund provided such suit is begun two (2) years after making such refund, except that the suit may be brought within five (5) years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

(Ordinance 493, May 8, 1968, Article 6)

§407. Interest and Penalties.

If for any reason the tax is not paid when due, interest at the rate of six percent (6%) per annum on the amount of said tax, and an additional penalty of one half of one percent (1/2 of 1%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed. (Ordinance 493, May 8, 1968, Article 7)

§408. Fines and Penalties.

1. Any person who fails, neglects, or refuses to make any declaration or return required by this Part 4, any employer who fails, neglects, or refuses to register or to

pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part 4, shall, upon conviction thereof before any justice of the peace or court of competent jurisdiction in the county, be sentenced to pay a fine of not more than three hundred dollars (\$300.00) for each offense, and costs, and, in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty (30) days.

2. Any person who divulges any information which is confidential under the provisions of this Part 4, shall, upon conviction thereof before any justice of the peace or court of competent jurisdiction, be sentenced to pay a fine of not more than three hundred dollars (\$300.00) for each offense, and costs, and, in default of payment of said fines and costs to be imprisoned for a period not exceeding thirty (30) days.
3. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Part 4.
4. The failure of any person to receive or procure forms required for making the declaration or returns required by this Part 4 shall not excuse him from making such declaration or return.

(Ordinance 493, May 8, 1968, Article 8; as amended by Ordinance 599, December 19, 1983)

§409. Distress and Sale of Goods and Chattels of Taxpayer.

The officer shall have power in case of the neglect or refusal of any person, copartnership, or association, to make payment of the amount of any tax due by him, after two (2) months from the date of the tax notice, to levy the amount of such tax, any penalty due thereon and costs, not exceeding costs and charges allowed constables for similar services by distress and sale of the goods and chattels of such delinquent, wherever situate or found, upon giving at least ten (10) days' public notice of such sale, by posting ten (10) written or printed notices, and by one (1) advertisement in a newspaper of general circulation published in the county.

No failure to demand or collect any taxes by distress and sale of goods and chattels shall invalidate any return made, or lien filed for nonpayment of taxes, or any tax sale for the collection of taxes.

(Ordinance 493, May 8, 1968, Article 9)

§410. Collection of Delinquent Earned Income Taxes from Employers.

The officer shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals, employing persons owing delinquent earned income taxes, or whose wife owes delinquent earned income taxes, or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent earned income taxes, or whose wife owes delinquent earned income taxes, upon the presentation of a written notice and demand certifying that the information contained therein is true and correct and containing the name of the taxpayer or the husband thereof and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees, then owing or that shall within sixty (60) days thereafter become due, or from any unpaid commissions or earnings of any such taxpayer in its or his possession, or that shall within sixty (60) days thereafter come into its or his possession, a sum sufficient to pay the amount of the delinquent earned income taxes and costs, shown upon the written notice or demand, and to pay the same to the officer within sixty (60) days after such notice shall have been given. Such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding two percent (2%) of the amount of money so collected and paid over to the officer. Upon the failure of any such corporation, political subdivision, association, company, firm or individual, to deduct the amount of such taxes or to pay the same over to the officer, less the cost of bookkeeping involved in such transactions, as herein provided, within the time required, such corporation, political subdivision, association, company, firm or individual shall forfeit and pay the amount of such tax for each such taxpayer whose taxes are not withheld and paid over, or that are withheld and not paid over together with a penalty of ten percent (10%) added thereto, to be recovered by an action of assumpsit in a suit to be instituted by the officer or by the proper authorities of the taxing district, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law. (Ordinance 493, May 8, 1968, Article 10)

§411. Payment of Tax to Other Political Subdivisions.

1. Payment of any tax to any other political subdivision pursuant to an ordinance or resolution passed or adopted prior to the effective date of the Act, shall be credited to and allowed as a deduction from the liability of taxpayers for any tax imposed under this Part 4.
2. Payment of any tax on salaries, wages, commission, other compensation or net profits of business, professions or other activities to any other political subdivision by residents thereof pursuant to any ordinance or resolution passed or adopted under the authority of the Act shall be credited to and allowed as a deduction from the liability of such persons for any tax imposed under this Part 4.

3. Payment of any tax on income to any other political subdivision by residents thereof pursuant to an ordinance or resolution passed or adopted under the authority of the Act shall to the extent that such income includes salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities, but in such proportion as hereinafter set forth, be credited to and allowed as a deduction from the liability of such persons for any tax imposed under this Part 4.
4. Payment of any tax on income to any state or to any other political subdivision thereof by residents thereof, pursuant to any State or local law, shall, to the extent that such income includes salaries, wages, commissions, or other compensation or net profits of businesses, professions or other activities but in such proportions as hereinafter set forth, be credited to and allowed as a deduction from the liability of such person for any tax imposed under this Part 4, if residents of the political subdivision in Pennsylvania receive credits and deductions of a similar kind to a like degree from the tax on income imposed by the other state or political subdivision thereof.
5. Payment of any tax on income to any state other than Pennsylvania or to any political subdivision located outside the boundaries of this Commonwealth, by residents of a political subdivision located in Pennsylvania shall, to the extent that such income includes salaries, wages, commission, or other compensation, or net profits of businesses, professions, or other activities but in such proportions as hereinafter set forth, be credited to and allowed as a deduction from the liability of such person for any tax imposed under this Part 4.
6. Where a credit or a deduction is allowable in any of the several cases hereinabove provided, it shall be allowed in proportion to the concurrent periods for which taxes are imposed by other state or respective political subdivisions, but not in excess of the amount previously paid for a concurrent period.

(Ordinance 493, May 8, 1968, Article 11)

§412. Incorporation of Local Tax Enabling Act.

All provisions of the Act of December 31, 1965, P.L. 1257, known as the "Local Tax Enabling Act", as amended and supplemented, are incorporated herein by reference.

(Ordinance 493, May 8, 1968, Article 12; as amended by Ordinance 599, December 19, 1983)

§413. Effective Date.

This Part 4 shall become effective July 1, 1968, and shall continue in force from year to year until amended or superceded by subsequent ordinances. (Ordinance 493, May 8, 1968, Article 13; as amended by Ordinance 599, December 19, 1983)

§414. Registration of Rental Housing and Tenants.

1. Owners of rental housing units are required to file a "Rental Housing and Tenant Report" for all rental properties located within the Borough of Stroudsburg. The property owner must supply the addresses of all rental housing units and the names of all persons occupying such units or properties.
2. The Borough will advise all such property owners of their duty to register their rental properties and tenants. The Borough shall supply such forms as it prepares for this purpose. All property owners shall file a "Rental Housing and Tenant Report" annually and shall notify the Borough of any change in occupancy within thirty (30) days of the change.
3. Any owner of rental housing units who fails, neglects or refuses to register his/her property or refuses to identify his/her tenants or refuses to notify the Borough of any change in occupancy within the prescribed time limit or any person who knowingly makes any incomplete, false, or fraudulent report shall, upon conviction thereof, be sentenced to pay a fine of not less than five dollars (\$5.00) nor more than three hundred dollars (\$300.00) for each offense and costs.

(Ordinance 493, May 8, 1968; as added by Ordinance 696, September 12, 1990, §1)

Part 5

Discounts and Penalties

§501. Discounts.

All taxpayers subject to the payment of taxes, assessed by any taxing district, shall be entitled to a discount of two percentum (2%) from the amount of such tax upon making payment of the whole amount thereof within two (2) months after the date of the tax notice. (Ordinance 594, December 29, 1982, §4)

§502. Penalties.

All taxpayers, who shall fail to make payment of any such taxes charged against them for four (4) months after the date of the tax notice, shall be charged a penalty of ten percentum (10%) which penalty shall be added to the taxes by the tax collector and be collected by him. (Ordinance 594, December 29, 1982, §4)

