

Chapter 187

TAXATION

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[HISTORY: Adopted by the Borough Council of the Borough of Dormont as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Earned Income Tax

[Adopted 12-18-2006 by Ord. No. 1546, §§1-9]

§ 187-1. **Short title.**

This article shall be known as the “Earned Income Tax Ordinance.” The provisions hereof shall become effective on the 1st day of January, 2007, A.D., and the tax shall continue in force on a calendar year or a taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed. Changes in rate become effective on the date specified in the amending ordinance.

§ 187-2. **Definitions.**

ASSOCIATION — A partnership, limited partnership, or any other unincorporated group of two or more persons.

BOROUGH COUNCIL — The Borough Council of the Borough of Dormont.

BUSINESS — Any 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.

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 voluntarily fixed place of habitation of a person, 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 — Compensation including salaries, wages, commissions, bonuses and incentive payments whether based on profits or otherwise, fees, tips and similar remuneration for services rendered, whether in cash or in property, such as:

- A. Items of remuneration received, directly or through an agent, in cash or in property, based on payroll periods or piecework, for services rendered as an employee or casual employee, agent or officer of an individual, partnership, business or nonprofit corporation, or government agency. These items include salaries, wages, commissions, bonuses, stock options, incentive payments, fees, tips, dismissal, termination or severance payments, early retirement incentive payments and other additional compensation contingent upon retirement, including payments in excess of the scheduled or customary salaries provided for those who are not terminating service, rewards, vacation and holiday pay, paid leaves of absence, payments for unused vacation or sick leave, tax assumed by the employer, signing bonuses, amounts received under employee benefit plans and deferred compensation arrangements.
- B. Scholarships, stipends, grants and fellowships, if services are rendered in connection therewith.
 - (1) When used in this subsection, the following words have the following meanings, unless the context clearly indicates otherwise:
 - (a) FELLOWSHIP STIPEND OR FELLOWSHIP AWARD — A fixed sum of money paid periodically for services or to defray expenses to a graduate student who is enrolled in a graduate degree program at a university.
 - (b) GRANT-IN-AID-FINANCIAL — Support given by a public agency or private institution to an individual to further the individual's education.
 - (c) POSTDOCTORAL RESEARCH FELLOWSHIP STIPEND OR POSTDOCTORAL RESEARCH FELLOWSHIP AWARD — A fixed sum of money paid periodically for service or to defray expenses of an individual who has obtained a doctoral degree at a university and in conducting research at a research facility.
 - (d) SCHOLARSHIP - A grant-in-aid to a student.
- C. Other forms of remuneration characterized as taxable compensation by the Tax Reform Code of 1971, as amended, and its implementing regulations, as amended, and any future amendments to said Code and/or its implementing regulations.
- D. Compensation does not include (1) periodic payments for sickness and disability other than the regular wages received during a period of sickness or disability; or (2) disability, retirement or other payments arising under workmen's compensation acts, occupational disease acts and similar legislation by any government; or (3) payments commonly recognized as old age or retirement benefits paid to persons retired after reaching a specific age or after a stated period of employment; or (4) payments commonly known as public assistance, or unemployment compensation payments by any governmental agency; or (5) payments to reimburse actual expenses; or (6) payments made by employers or labor unions for employee benefit programs covering hospitalization, sickness, disability or death, supplemental employment benefits or strike benefits, subject to certain conditions identified in the Tax Reform Code of 1971, as amended and its implementing regulations; or (7) any compensation received by United States

servicemen serving in a combat zone; or (8) payments received by a foster parent for in-home care of foster children from an agency of the Commonwealth or a political subdivision thereof, or an organization tax exempt from Federal tax under Section 501(c)(3) of the Internal Revenue Code of 1954, which is licensed by the Commonwealth or a political subdivision thereof as a placement agency; or (9) payments made by employers or labor unions for employee benefit programs covering social security or retirement; or (10) personal use of an employer's owned or leased property or of employer-provided services.

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.

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

NET PROFITS —

- A. 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, be determined either on a cash or accrual basis in accordance with generally accepted accounting principles and practices, as defined in the Tax Reform Code of 1971, as amended, its implementing regulations, and any subsequent amendments to said Code and/or regulations. Net profits do not include income which is not paid for services provided and which is in the nature of earnings from an investment.
- B. To constitute net profits, all of the following must apply:
- (1) The gross profits shall be derived from one of the following:
 - (a) The marketing of a product or service to customers on a commercial basis or from securities employed as working capital in the business operations.
 - (b) Accounts and notes receivable from sales of products or services in the ordinary course of the business operations.
 - (c) Assets which serve an operational function in the ordinary course of business, operations.
 - (2) The marketing activity shall be conducted with the manifest objective of achieving profitable operations.
 - (3) The marketing objective shall be conducted with regularity and continuity and may not be limited or exclusive.
- C. In computing net profits, a deduction will not be allowed for any item of cost, expense or liability derived or incurred in connection with, or attributable to any of the following:
- (1) The ownership or disposition of assets that are held for investment purposes or otherwise serve an investment function.

- (2) The trading in securities for personal purposes and not for the accounts of customers.
 - (3) The sale, discontinuation or abandonment of a business or segment thereof.
 - (4) Any tax imposed on, or measured by, gross or net earned or unearned income.
 - (5) An isolated or nonrecurring transaction which is not a normal or routine business activity.
- D. Choosing to form a partnership or other entity or to associate with others, receiving and reporting income or gain as the income of the partnership, entity or associates or dividing the same among its partners, beneficial owners or associates or the trading in securities for the benefit of shareholders, partners, members or associates does not of itself make the income of the partnership, entity or associates net profits.
- E. For purposes of this section, only the following participants in the stock, securities, options, derivatives, futures or commodities market are engaged in marketing of a product or service to customers:
- (1) Those who maintain or provide a market place or facilities for bringing together purchasers and sellers of these financial investment products.
 - (2) Those who are licensed to act as their customer's agents and charge a negotiated commission for executing transactions and do not take title to the particular portion they buy or sell.
 - (3) Those who devote managerial attention to the financial investment products holdings of others, or who employ other persons to assist them in that management, in the capacity of a licensed investment advisor.
 - (4) Licensed dealers, including financial investment product specialists and market makers, if the conditions in subsection E(4)(a)-(d) are met:
 - (a) The dealer maintains an inventory of financial investment products with the objective of reselling his inventories at a profit to customers or operates as a specialist or market maker.
 - (b) The dealer makes market by quoting the bid and ask prices at which he is willing to buy and sell the financial investment products and by buying directly from or selling directly to customers.
 - (c) The dealer's profit is determined in whole or in part by a markup based on cost.
 - (d) The dealer elects to inventory securities held for resale to customers or uses the mark-to-market system of accounting.
 - (5) Underwriters who facilitate initial sales of financial investment products by acting either as licensed dealers in a principal capacity or as brokers in an agency capacity.
- F. When a person operates as an investor or trader with respect to a portion of that person's

activities and as a market establishment, broker, investment counselor or dealer with respect to the rest, this section applies only to the operations as a market establishment, broker, investment counselor or dealer. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

- (1) Any interest earnings generated from any monetary accounts or investment instruments of the farming business.
- (2) Any gain on the sale of farm machinery.
- (3) Any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes.
- (4) Any gain on the sale of other capital assets of the farm.

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 — The Borough of Dormont, Allegheny 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.

§ 187-3. Imposition of tax.

A tax for general revenue purposes is hereby reimposed in the amount of 1% earned income received and to net profits earned by residents and non-residents of the Borough of Dormont, beginning on the 1st day of January, 2007, and continuing for each taxable year thereafter.

Except as otherwise provided in Section 14 of the Local Tax Enabling Act, 53 P.S. §6914, as amended, allowing for crediting or deductions for duplication of taxes, in the event the school district in which the Borough is situate, shall impose, or continue to impose, an earned income tax under the authority of the Act on residents or businesses domiciled within that Borough during the same year or part of year, then the tax herein imposed shall be subject to the sharing provision from the day such duplication becomes effective.

§ 187-4. Declaration and payment of tax.

A. Net Profits.

- (1) 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 quarterly installments, as nearly equal as possible, 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) 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, and pay to the officer in installments, as nearly equal as possible, the tax due thereon, on or before the quarterly payment dates which remain after the filing of the declaration.
- (3) 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 and reconciliation showing the amount of net profits earned during the period beginning January 1 of the current year 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 the tax due or shall make demand for refund or credit in the case of overpayment.

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 required.

- (4) 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, anticipated additional net profits not previously declared or finds that he has overestimated his anticipated net profits.
- (5) Every taxpayer who discontinues business prior to December 31 of the current year, shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

B. Earned Income.

- (1) Annual Earned Income Tax Return. 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, and ending December 31 of the current year. Such final return shall also show the total amount of tax due thereon, the amount of tax paid thereon, and 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.

- (2) **Earned Income Not Subject to Withholding.** 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 returns, shall, at the time of filing thereof, pay to the officer the amount of tax shown as due thereon.
- C. **Death of Taxpayer.** In the event of the death of a taxpayer during a taxable period, his personal representative shall file his return on or before the 15th day of April of the year following the date of death and on or before such date shall pay any tax due from such deceased taxpayer under this article or demand refund in the case of over-payment.
- D. **Guardian of Taxpayer.** Should a guardian of the estate be appointed for a taxpayer such guardian shall be imputed with the same duties and responsibilities as the taxpayer would have regarding the reporting and paying of taxes under this article.

§ 187-5. Collection at source.

- A. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Borough 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 15 days after becoming an employer, register with the officer, his name and address and such other information as the officer may require.
- B. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Borough 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 article on the earned income due to his employment, and shall, 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-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. Such return unless otherwise agreed upon between the officer and the employer shall show the name and social security number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the complete address of each and every employee subject to withholding, the total earned income of all such employees during such preceding three-month period, and the total tax deducted there from and paid with the return.

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

- C. On or before February 28, of the succeeding year, every employer shall file with the officer:
- (1) 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 and ending December 31 of the current year.
 - (2) A return withholding statement for each employee employed during all or any part of the period beginning January 1 of the current year 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, and 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.
- D. Every employer who discontinues business prior to December 31 of the current year, shall within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.
- E. Except as otherwise provided herein, every employer who willfully or negligently fails or 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.

Notwithstanding the foregoing, no employer shall be held liable for failure to withhold earned income taxes or for the payment of such withheld tax money to a political subdivision other than the Borough if such failure to withhold or such incorrect transmittal of withheld taxes arises from incorrect information as to the employee's place of residence submitted by the employee, nor shall an employer be liable for failure to withhold earned income taxes, or to make reports of wages, salaries, commissions or other compensation of his/its employees, unless the official continuing register of all earned income taxes levied under the authority of the Local Tax Enabling Act, as amended, maintained and supplemented annually by the Department of Community and Economic Development, lists the Borough's levying of the earned income tax.

- F. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of tax or from complying with the requirements of this article relating to the filing of declarations and returns.

§ 187-6. Powers and duties of officer.

- A. The Borough Council, by resolution, shall appoint the officer.
- B. It shall be the duty of the officer to collect and receive the taxes, fines and penalties imposed by this article. 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 the date of such receipt.

- C. Each officer, before entering upon his official duties, shall give and acknowledge a bond to the Borough. If the Borough shall by ordinance designate any bond previously given by the officer as adequate, such bond shall be sufficient to satisfy the requirements of this subsection. Each such bond shall be joint and several with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of this Commonwealth. Each bond shall be conditioned upon the faithful discharge by the officer, his clerks, assistants, appointees of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required of him by virtue of his office, upon the just and faithful accounting or payment over, according to law, of all monies and all balances thereof paid to, received or held by him by virtue of his office and upon the delivery to his successor or successors in office of all books, papers, documents, or other official things held in right of his office.

Each such bond shall be taken in the name of Dormont Borough, and shall be for the use of the Borough appointing the officer, and for the use of such other person or persons for whom money shall be collected or received, or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the principal of the bond.

The Borough, or any person, may sue upon the said bond in its own or his own name for its or his own use.

Each such bond shall contain the name or names of the surety company or companies bound thereon. The Borough shall fix the amount of the bond at an amount equal to the maximum amount of taxes which may be in the possession of the officer at any given time. The Borough may at any time, upon cause shown and due notice to the officer, and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to the Borough for the purpose of making the bond sufficient in amount, without releasing the surety or sureties first approved from any accrued liability or previous action on such bond. The Borough shall designate the custodian of the bond required to be given by the officer.

- D. The officer charged with the administration and enforcement of the provisions of this article is hereby empowered to prescribe, adopt, promulgate, and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which any overpayment is claimed or found to have occurred, and to make refunds in case of overpayment, for any period of time not to exceed six years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of this article. No rule or regulation of any kind shall be enforceable unless it has been approved by ordinance by the Borough Council. A copy of such rules and regulations currently in force shall be available for public inspection.
- E. 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.
- F. The officer and agent 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 opportunities for such examination and investigation as hereby authorized. The officer shall have such power to subpoena books, records and papers of the employer or taxpayer as may be found in authority of the Commonwealth of Pennsylvania.

- G. Any information gained by the officer, his agents, or by any other official or agent of the Borough as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this article, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.
- H. The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

§ 187-7. Suit for collection of tax.

- A. The officer may sue in the name of the Borough for the recovery of taxes due and unpaid under this article.
- B. Any suit brought to recover the tax imposed by this article shall be begun within three years after such tax is due, or within three 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:

- (1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of this article, there shall be no limitation.
 - (2) 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.
 - (3) In the case of substantial understatement of tax liability of 25% or more and no fraud, suit shall be begun within six years.
 - (4) Where any person has deducted taxes under the provisions of this article, 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 limitation.
 - (5) This section shall not be construed to limit the Borough Council from recovering delinquent taxes by any other means provided by the Act.
- C. The officer may sue for recovery of an erroneous refund provided such suit is begun two years after making such refund, except that the suit may be brought within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

§ 187-8. Interest and penalties.

- A. If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of ½% 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 therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.
- B. Notwithstanding the provisions of subsection A, the Borough may, by ordinance, establish a one-time period during which interest or interest and penalties that would otherwise be imposed for the nonreporting or underreporting of earned income tax liabilities or for the nonpayment of earned income taxes previously imposed and due shall be waived in total or in part if the taxpayer voluntarily files delinquent returns and pay the taxes in full during the period so established. The Borough shall adopt regulations to implement the provisions of this subsection.
- C. The provisions of subsection B shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under the provisions of this article, or prevent the commencement or further prosecution of any proceedings by the proper authorities for violations of this article. No proceedings shall, however, be commenced on the basis of delinquent returns filed pursuant to subsection B if the returns are determined to be substantially true and correct and the taxes are paid in full within the prescribed time.

§ 187-9. Fines and penalties for violation of this article.

- A. Any person who fails, neglects, or refuses to make any declaration or return required by this article, 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 article, shall, upon conviction thereof before any justice of the peace, alderman or magistrate, or court of competent jurisdiction in Allegheny County, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and in default of payment of said fine and costs to be imprisoned for a period not exceeding 30 days.
- B. Any person who divulges any information which is confidential under the provisions of this article, shall, upon conviction thereof before any district justice, or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and in default of payment of said fines and costs to be imprisoned for a period not exceeding 30 days.
- C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this article.
- D. The failure of any person to receive or procure forms required for making the declaration or returns required by this article shall not excuse him from making such declaration or return.

ARTICLE II
Local Services Tax
[Adopted 12-3-2007 by Ord. No. 1554, §1]

§ 187-10. Title.

This Article shall be known and cited as the “Local Services Tax Ordinance.”

§ 187-11. Authority.

This article is enacted under the authority of the Local Tax Enabling Act, as amended by Act No.7 of 2007.

§ 187-12. Purpose.

The purpose of this article is to provide revenue for police, fire and emergency services; road construction and maintenance; the reduction of property taxes and for such other purposes as may be specified for such tax from time to time by §22.6 of the Local Tax Enabling Act, as amended.

§ 187-13. Definitions.

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

COLLECTOR — The person, public employee or private agency designated by the political subdivision 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, as amended.

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 political subdivision.

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, as amended.

OCCUPATION — Any trade, profession, business or undertaking of any type, kind or

character, including services, domestic or other, earned on or performed within the corporate limits of the political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.

POLITICAL SUBDIVISION — The area within the corporate limits of the Borough of Dormont.

RESERVE COMPONENT OF THE ARMED FORCES — 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.

TAX — The local services tax levied by this article.

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

§ 187-14. Levy of tax.

The Borough of Dormont hereby levies and imposes on every individual engaging in an occupation with the jurisdictional limits of the Borough of Dormont a tax in the amount of \$52 per annum, beginning the first day of January 2008 and continuing on a calendar basis annually thereafter, until modified or repealed by subsequent ordinance.

§ 187-15. Exemption and refunds.

- A. Exemption. Any person whose total earned income and net profits from all sources within the political subdivision 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:
- (1) 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 one hundred percent disability.
 - (2) 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.
- B. Procedure to Claim Exemption.
- (1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than \$12,000 in the calendar year for which the exemption certificate is filed. In the event the political subdivision 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 political subdivision 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 political subdivision or except as required by subsection B(2), 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. The exemption certificate form shall be the uniform form provided by the political subdivision.

- (2) 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 political subdivision that the person has received earned income and net profits from all sources within the political subdivision 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 income within the municipality 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 B(3).
 - (3) 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 B(2), 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 B(2), 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 clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this article.
 - (4) Except as provided in subsection B(2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.
- C. Refunds. The Borough of Dormont, 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. 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 of Dormont or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

§ 187-16. Duty of employers to collect.

- A. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for 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 political subdivision.
- B. 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 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 D 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 municipality.
- C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
- D. 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.
- E. 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 political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision 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 B, titled "Procedure to Claim Exemption," under the section of this article, titled "Exemption and Refunds," and remits the amount so withheld in accordance with this article.
- G. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of a calendar year.

§ 187-17. 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 article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

§ 187-18. Dates for determining tax liability and payment.

Each employer shall use his employment and payroll records from the first day of January to March 31 each year for determining the number of employees from whom said tax shall be deducted and paid over to the collector on or before April 30 of the same calendar year. Supplemental reports shall be made by each employer on July 30, October 30 and January 31 for new employees as reflected on his employment and payroll records from April 1 to June 30, July 1 to September 30 and October 1 to December 31, and payments on these supplemental reports shall be made on July 30, October 30 and January 31, respectively.

§ 187-19. Self-employed individuals.

Each self-employed individual who has earned income or realizes net profit, as those terms are defined herein, within the political subdivision shall be required to comply with this article and pay the tax due to the Collector on or before the thirtieth day following the end of each quarter.

§ 187-20. Individuals engaged in more than one occupation or employed in more than one political subdivision.

- A. 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:
- (1) First, the political subdivision in which a person maintains his or her principal office or is principally employed.
 - (2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision.
 - (3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home. 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.

§ 187-21. Nonresidents subject to tax.

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

§ 187-21.1. Administration of tax.

- A. It shall be the duty of the Collector to accept and receive payments of this tax and 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. It shall be the duty of the Collector to accept and keep a record of the information submitted by employers relating to the number of employees subject to the tax, the number of employees exempt from the tax, the employee exemption certificates and refunds of the tax paid to individuals and employers.
- B. The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered, subject to municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article 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 Westmoreland County as in other cases provided.
- C. 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.

§ 187-21.2. Suits for collection.

- A. In the event that any tax under this article 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 article, together with interest and penalty.
- B. 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.

§ 187-21.3. Violations and penalties.

Whoever makes any false or untrue statement on any return required by this article, 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 article 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 article.

§ 187-21.4. Interpretation.

- A. Nothing contained in this article shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
- B. If the tax hereby imposed under the provisions of this article 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.

ARTICLE III**Property Tax Discount**

[Adopted 2-21-1977 as Ord. No. 1229]

§ 187-22. Eligibility for discount.

All taxpayers subject to the payment of property taxes assessed by the Borough of Dormont for the year 1977 and all years thereafter shall be entitled to a discount of 2% from the amount of such tax upon making payment of the whole amount thereof within two months after the date of the tax notice.

§ 187-23. Penalty for late payment.

All taxpayers subject to the payment of property taxes assessed by the Borough of Dormont for the year 1977 and all years thereafter who shall fail to make payment of any such taxes charged against them for four months after the date of the tax notice shall be charged a penalty of 10%, which penalty shall be added to the taxes by the Tax Collector and be collected by him or her.

ARTICLE IV**Realty Transfer Tax**

[Adopted 12-18-2006 by Ord. No. 1547]

§ 187-24. Imposition of tax.

The Borough of Dormont 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%.

§ 187-25. Administration.

The tax imposed under § 187-24 and all applicable interest and penalties shall be administered, collected and enforced under the Act of 31 December 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 Dormont, 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.

§ 187-26. Interest.

Any tax imposed under § 187-24 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 9 April 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.

§ 187-27. through § 187-40. [Reserved].

ARTICLE V
Senior Citizens Tax Exemption
[Adopted 1-3-1995 by Ord. No. 1438]

§ 187-41. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ACT 77 — The Act of December 22, 1993, Public Law 529, No. 77, codified as the Allegheny Regional Asset District Law, 16 P.S. § 6101-B et seq.

ALLEGHENY REGIONAL ASSET DISTRICT LAW — See “Act 77” above.

ASSESSMENT — The fair market value of property as determined by the Board of Property Assessment, Appeals and Review of Allegheny County.

BOROUGH — Borough of Dormont.

COUNCIL — The Borough of Dormont Council.

DEPARTMENT OF PROPERTY ASSESSMENT — The Department of Property Assessment, Appeals, Review and Registry of Allegheny County.

ELIGIBLE TAXPAYER [**Amended 4-2-2001 by Ord. No. 1498**] — A longtime owner/occupant of a principal residence in the Borough of Dormont who is:

- A. A single person aged 60 or older during a calendar year in which borough real property taxes are due and assessed; or
- B. Married, if either spouse is 60 or older during a calendar year in which the Borough of Dormont's real property taxes are due and assessed.

HOUSEHOLD INCOME — All income received by an eligible taxpayer while residing in his or her principal residence during a calendar year.

INCOME — All income from whatever source derived, including, but not limited to salaries, wages, bonuses, commissions, income from self-employment, alimony, support money, cash, public assistance and relief, all benefits received under state unemployment insurance laws and veteran's disability payments, all interest received from the federal or any state government or any instrumentality or political subdivision hereof, realized capital gains, rentals, workmen's compensation and the gross amount of loss of time insurance benefits, life insurance benefits and proceeds (except the first \$5,000 of the total of death benefit payments), gifts of cash or property (other than transfers by gift between members of a household) in excess of a total value of \$300 and the gross amount of any pensions or annuities except that, for calculating income, only 50% of social security benefits, SSI and railroad retirement benefits must be included. [**Amended 4-2-2001 by Ord. No. 1498**]

LONGTIME OWNER/OCCUPANT — Any person who for at least 10 continuous years has owned or has occupied a primary residence in Allegheny County as a principal residence and domicile, or any person who for at least five years has owned and occupied the same dwelling as a principal residence and domicile if that person received assistance in the acquisition of the property as part of a government or nonprofit housing program. A person shall be determined to be a "longtime owner/occupant" who has moved within the past 10 years to a different property in Allegheny County but continues to own and occupy the new property as a primary residence. [**Amended 4-2-2001 by Ord. No. 1498**]

MUNICIPALITY — The Borough of Dormont.

PERSON — A natural person.

PRINCIPAL RESIDENCE — The dwelling place of a person, including the principal house and lot, and such lots as are used in connection therewith which contribute to its enjoyment, comfort and convenience; or a building with a maximum of one commercial establishment and a maximum of three residential units of which one residential unit must be a principal residence

of the longtime owner/occupant.¹

§ 187-42. Tax relief for eligible taxpayers. [Amended 4-2-2001 by Ord. No. 1498]

All eligible taxpayers in the Borough of Dormont who are longtime owner/occupants shall be entitled to a ten-percent discount on the real estate tax on their primary residence for each year that they are eligible as long as they meet the household income limits as set forth in § 187-43.

§ 187-43. Participation in tax relief program. [Amended 4-2-2001 by Ord. No. 1498]

Any person paying property taxes in the Borough of Dormont may apply to participate in the tax relief program authorized under this article. In order to be eligible to participate in the program, the person must meet the following conditions:

- A. The person must be a single person aged 60 or older; or be married persons with either spouse being 60 years of age or older.
- B. The person must be a longtime owner/occupant.
- C. The property owned by the person must be the principal residence and domicile of the resident.
- D. The person's household income must be \$30,000 or less.

§ 187-44. Rules and regulations. [Amended 4-2-2001 by Ord. No. 1498]

The Department of Property Assessment and the Borough of Dormont's Secretary/Manager shall have the authority to issue rules and regulations with respect to the administration of the limitation of tax assessment program.

ARTICLE VI
Real Estate Tax
[Adopted 4-6-1998 by Ord. No. 1477]

§ 187-45. Installments not to exceed four.

Real estate taxes due and owing to the Borough of Dormont for the borough taxes on real estate may be paid in equal installments not to exceed four as set forth in § 187-46.

§ 187-46. Dates due.

¹ Editor's Note: The former definition of "Senior Citizen Rebate and Assistance Act," which immediately followed this definition, was repealed 4-2-2001 by Ord. No. 1498.

- A. The four equal installments shall be due and payable on the following dates and shall be delinquent if not paid, in calendar year 1998, on or before said due date:
- (1) First installment due: on or before August 31.
 - (2) Second installment due: on or before October 31.
 - (3) Third installment due: on or before November 30.
 - (4) Fourth installment due: on or before December 31.
- B. And in calendar year 1999 and thereafter, on or before said due dates:
- (1) First installment due: on or before April 30.
 - (2) Second installment due: on or before June 30.
 - (3) Third installment due: on or before July 31.
 - (4) Fourth installment due: on or before August 31.

§ 187-47. No discount allowed for installments.

Where the taxpayer elects to pay real estate taxes on an installment basis, no abatement or discount shall be allowed.

§ 187-48. Violations and penalties.

Any installment not paid in full on or before the due date shall be delinquent and to such installment shall be added a penalty of 10%, which penalty shall be collected by the Tax Collector. No further penalties, except as hereinafter provided, shall be added to any installment of taxes, unless one or more installments remain unpaid, and the lands upon which the installments are due are returned under existing laws to the County Commissioners for nonpayment of taxes, or in case a lien for such unpaid installment or installments is filed under existing laws in the Office of the Prothonotary, the additional penalty or interest provided for by such existing return and lien laws shall apply.

§ 187-49. Evidence of intention.

The payment of the first installment by a taxpayer before the same becomes delinquent shall conclusively evidence an intention to pay his/her taxes on the installment plan, as provided by the within article.

§ 187-50. Payments not by installment.

Where a taxpayer shall fail to evidence an intention to pay on the installment plan, as provided for

herein, his taxes shall become due and payable and be collected as elsewhere provided, subject to the applicable discounts and penalties otherwise provided.

§ 187-51. Tax verification letter. [Added - - - - by Ord. No. 1537, §II]

- A. The Tax Collector is hereby charged with the administration and enforcement of this section and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including, but not limited to the following:
- (1) Establishing the form of application.
 - (2) Establishing the method of application.
 - (3) Limiting or eliminating the availability of rush processing.
- B. No tax verification letter shall be issued unless the request for the same is accompanied by a valid sanitary sewer certificate and the following fees:
- (1) Tax verification letter, normal processing: \$30.
 - (2) Rush processing (two days or less): additional \$5.
 - (3) Rush processing (one day or less): additional \$10.
- C. The Borough Council shall, from time to time, have the authority to change the fees required for the issuance of the tax verification letter by resolution, which shall be adopted from time to time by the Borough Council.