

Chapter 99
TAXATION

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

GENERAL REFERENCES

Amusement devices — See Ch. 35.

ARTICLE I
Earned Income Tax
[Adopted 7-15-1980 as Ch. 99, Art. I, of the 1980 Code]

§ 99-1. Definitions.

The definitions contained in Section 13 of the Local Tax Enabling Act (53 P.S. § 6913) shall apply to this article.

§ 99-2. Imposition of tax.

A. A tax for general revenue purposes of 1/2 of 1% is hereby imposed on the following:

- (1) Salaries, wages, commissions and other compensation earned on and after January 1, 1962, by residents of the Borough of Heidelberg.
 - (2) Salaries, wages, commissions and other compensation earned on and after January 1, 1962, by nonresidents of the Borough of Heidelberg for work done or services performed or rendered in the Borough of Heidelberg.
 - (3) Net profits earned on and after January 1, 1962, of businesses, professions and other activities conducted by residents of the Borough of Heidelberg.
 - (4) Net profits earned on and after January 1, 1962, of businesses, professions and other activities conducted in the Borough of Heidelberg by nonresidents.
- B. The tax levied under Subsections A(1) and (2) herein shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to any person who is employed by or renders services to him. The tax levied under Subsections A(3) and (4) herein shall relate to and be imposed on the net profits of any business, profession or enterprise carried on by any person as owner or as proprietor either individually or in association with some other person or persons.
- C. The tax levied by this article shall be applicable to earnings and to net profits earned during the period beginning January 1, 1962, and ending December 31, 1962, 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.

§ 99-3. Declaration and payment of tax.

- A. Net profits.
- (1) Every taxpayer who anticipates any net profits shall, on or before March 15 of the current year, make and file with the Income Tax Officer, on a form prescribed by the Income Tax Officer, a declaration of his estimated net profits during the period beginning January 1 and ending December 31 of the current year, setting forth the estimated amount of net profits anticipated by him during said period and subject to the tax, the amount of tax imposed by this article on such estimated net profits and such other information as the Income Tax Officer may require. The taxpayer making the declaration shall, at the time of filing thereof, pay to the Income Tax Officer the estimated amount of tax shown as due thereon; provided, however, that the taxpayer shall have the right to pay the estimated tax in four quarterly installments as follows: the first installment at the time of filing the declaration on or before March 15 of the current year and the other installments on or before June 15 and September 15 of the current year and January 15 of the succeeding year, respectively.
 - (2) Any taxpayer who first anticipates any net profits after March 15 of the current year shall make and file the declaration hereinabove required on or before June 15, September 15 or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profits. The taxpayer making the declaration shall, at the time of filing thereof, pay to the

Income Tax Officer the estimated amount of tax shown as due thereon; provided, however, that the taxpayer shall have the right to pay the estimated tax in equal installments on or before the quarterly installment payment dates which remain after the filing of the declaration.

- (3) The Income Tax Officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits and for the payment 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.
 - (4) On or before March 15 of the succeeding year, every taxpayer who has received net profits shall make and file with the Income Tax Officer, on a form prescribed by him, a final return showing all of his net profits for the period beginning January 1 and ending December 31 of the current year, the total amount of tax due, the amount of estimated tax paid under the provisions of this section and the balance due; provided, however, that any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the Income Tax Officer, on or before January 15 of the succeeding year, the final return as hereinabove required. 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.
 - (5) Every taxpayer who discontinues business prior to December 31 of the current year shall, within 15 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.
- B. Salaries, wages, commissions and other compensation. Every taxpayer who is employed on a salary, wage, commission or other compensation basis and who receives any earnings not subject to the provisions of § 99-4 of this article relating to the collection at source shall, on or before April 15, July 15 and October 15 of the current year and January 15 of the succeeding year, make and file with the Income Tax Officer, on a form prescribed by the Income Tax Officer, a return setting forth the aggregate amount of salaries, wages, commissions and other compensation earned by him during the three-month periods ending March 31, June 30, September 30 and December 31, of the current year, respectively, and subject to the tax, together with such other information as the Income Tax Officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the Income Tax Officer the amount of tax shown as due thereon.

§ 99-4. Collection at source.

- A. Every person within the Borough of Heidelberg who employs one or more persons on a salary, wage, commission or other compensation basis, other than domestic servants, and who has not previously registered shall, within 15 days after becoming an employer, register with the Income Tax Officer his name and address and such other information as the Income Tax Officer may require

- B. Every person within the Borough of Heidelberg who employs one or more persons on a salary, wage, commission or other compensation basis, other than domestic servants, shall deduct monthly, or more often than monthly, at the time of payment thereof the tax imposed by this article on the salaries, wages, commissions and other compensation due to his employee or employees and shall on or before April 15 of the current year and on or before the 15th day of each succeeding calendar month file a return of taxes deducted on a form prescribed by the Income Tax Officer and pay to the Income Tax Officer the amount of tax deducted for the preceding month.
- C. On or before February 28 of the succeeding year, every such employer shall file with the Income Tax Officer, on forms prescribed by him, the following information:
- (1) An annual return showing the total amount of salaries, wages, commissions and other compensation paid; the total amount of tax deducted; and the total amount of tax paid to the Income Tax Officer during the period beginning January 1 and ending December 31 of the current year.
 - (2) A return for each employee employed during all or any part of the period beginning January 1 and ending December 31 of the current year, setting forth the employee's name, address and social security number; the amount of salaries, wages, commissions or other compensation paid to the employee during said period; the amount of tax deducted; the amount of tax paid to the Income Tax Officer; and other such information as the Income Tax Officer may require. Every employer shall furnish a copy 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 15 days after the discontinuance of business, file the return hereinabove required and pay the tax due.
- E. 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 this article relating to the filing of declarations and returns.

§ 99-5. Duties of Income Tax Officer.

- A. The Council of the Borough of Heidelberg by resolution or ordinance shall appoint the Income Tax Officer and shall, in such resolution or ordinance, fix the term of his office and his compensation and shall provide for the payment of the necessary expenses of his office. Before entering upon his duties, the Income Tax Officer shall furnish the Borough of Heidelberg a bond with surety in an amount fixed by the Borough of Heidelberg.
- B. It shall be the duty of the Income Tax 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 paying the tax and the date of such receipt.
- C. The Income Tax Officer is hereby charged with the administration and enforcement of the provisions of this article 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 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 prescribe forms necessary for the administration of this article.

- D. The Income Tax Officer and agents designated by him are hereby authorized to examine the books, papers and records of any employer or supposed employer or of any taxpayer or supposed taxpayer in order to verify the accuracy of any declaration or return or, if no declaration or return was filed, to ascertain the tax due. Every employer or supposed employer and every taxpayer or supposed taxpayer is hereby directed and required to give to the Income Tax Officer or to any agent designated by him the means, facilities and opportunity for such examinations and investigations as are hereby authorized.
- E. Any information gained by the Income Tax Officer, his agents or by any other official or agent of the Borough of Heidelberg 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.
- F. Any person aggrieved by any action of the Income Tax Officer shall have the right of appeal as provided by law.

§ 99-6. Suit for collection.

- A. The Income Tax Officer may sue 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 six years after such tax is due or within six years after a 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 the provisions of this article.
 - (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 Income Tax Officer reveals a fraudulent evasion of taxes, including but not limited to substantial understatement of taxes deducted and of actual or estimated net profits or earnings.
 - (3) Where any person has deducted taxes under the provisions of this article and has failed to pay the amounts so deducted to the Income Tax Officer.

§ 99-7. Interest and penalties.

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 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.

§ 99-8. Payment under protest.

The Income Tax Officer is hereby authorized to accept payment under protest of the amount of tax claimed by the Borough of Heidelberg in any case where any person disputes the validity or amount of the borough's claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Income Tax Officer, the amount of the overpayment shall be refunded to the person who paid under protest.

§ 99-9. Applicability.

- A. The tax imposed by this article shall not apply:
- (1) To any person as to whom it is beyond the legal power of the Borough of Heidelberg to impose the tax herein provided for under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.
 - (2) To institutions or organizations operated for public, religious, educational or charitable purposes; to institutions or organizations not organized or operated for private profit; or to trusts and foundations established for any of said purposes.
- B. This section shall not be construed to exempt any person who is an employer from the duty of collecting the tax at source from his employees and paying the amount collected to the Income Tax Officer under the provisions of § 99-4.

§ 99-10. Violations and penalties.

- 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; any person who refuses to permit the Income Tax Officer or any agent designated by him to examine his books, records and papers; and any person who 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 earnings to avoid the payment of the whole or any part of the tax imposed by this article shall, upon conviction thereof, 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 in the Allegheny County Jail for a period not to exceed 30 days.
- B. Any person who divulges any information which is confidential under the provisions of § 99-5E shall, upon conviction thereof, 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 in the Allegheny County Jail for a period not to exceed 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 the forms required for making the declarations or returns required by this article shall not excuse him from making such declaration or return.

ARTICLE II

Local Services Tax

[Adopted 7-15-1980 as Ch. 99, Art. II, of the 1980 Code; amended in its entirety
11-20-2007 by Ord. No. 575,¹ approved 11-20-2007]

§ 99-11. Short Title.

This article shall be known and maybe cited as "The Borough of Heidelberg Local Services Tax Ordinance."

§ 99-12. 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:

BOROUGH OF HEIDELBERG or BOROUGH — The area within the corporate limits of the Borough of Heidelberg.

COLLECTOR — The person, public employee or private agency designated by the Borough of Heidelberg 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 Heidelberg.

1. Editor's Note: This ordinance also stated that it shall be effective on 1-1-2008. See also § 99-13.

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.

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 Heidelberg 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 § 99-13 of this article.

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

§ 99-13. Levy of tax.

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 Heidelberg 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 article. This tax may be used solely for the following purposes, as the same may be allocated by the Borough Council from time to time: 1) emergency services, which shall include emergency medical services, police services and/or fire services; 2) road construction and/or maintenance; 3) reduction of property taxes; or 4) 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). The Borough shall use no less than 25% of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough of Heidelberg. 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.

§ 99-14. Exemption and refunds.

- A. 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:
- (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. 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.

B. Procedure to claim exemption.

- (1) A person seeking to claim an exemption from the local services tax shall 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 with 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 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 in the uniform form provided by the Borough of Heidelberg.
- (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 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 income 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 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 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 act.
- (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 a local services tax.

- C. 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. 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 refunds to exempt persons and provide refunds.

§ 99-15. Duty of employers to collect.

- A. Each employer within the Borough of Heidelberg, as well as those employers situated outside the Borough of Heidelberg but who engage in business within the Borough of Heidelberg, 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 Heidelberg and making a return and payment thereof to the Collector. 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 Heidelberg.
- 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 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 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 Borough.
- 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

Borough of Heidelberg 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 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 B of § 99-14 of this article and this section 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.

§ 99-16. Reviews.

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.

§ 99-17. 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.

§ 99-18. 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 Heidelberg shall be required to comply with this article 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.

§ 99-19. 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.
- B. 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.

§ 99-20. Nonresidents subject to tax.

All employers and self-employed individuals residing or having their places of business outside of the Borough of Heidelberg but who perform services of any type or kind or engage in any occupation or profession within the Borough of Heidelberg 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 Borough of Heidelberg. Further, any individual engaged in an occupation within the Borough of Heidelberg 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 Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§ 99-21. Administration of tax.

- A. 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.
- B. The Collector is hereby charged with the administration and enforcement of this article 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 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 Allegheny 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.

§ 99-22. 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.

§ 99-22.1. 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.

§ 99-22.2. Interpretation.

- A. Nothing contained in this article shall be construed to empower the Borough of Heidelberg to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Borough of Heidelberg 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**Per Capita Tax**

[Adopted 7-15-1980 as Ch. 99, Art. III, of the 1980 Code]

§ 99-23. Statutory authority.

This article is enacted under authority of the Act of June 25, 1947 (P.L. 1145), and its amendment.

§ 99-24. Definitions and word usage.

- A. Unless otherwise expressly stated, the following terms shall have, for the purpose of this article, the meanings herein indicated:

COLLECTOR — The person elected or designated by the Borough Council to collect or receive the taxes imposed by this article.

PERSON — Any natural person.

RESIDENT — Any person domiciled in the Borough of Heidelberg.

TAXPAYER — Any person required hereunder to pay a per capita tax.

- B. The singular shall include the plural and the masculine, the feminine and the neuter.

§ 99-25. Imposition of tax.

In addition to other taxes imposed by the ordinances of the Council of the Borough of Heidelberg, there is hereby imposed, for general revenue purposes, an annual tax of \$5 upon every resident of the Borough of Heidelberg who shall have attained the age of 18 years on or before the first day of January 1965, the first day of the fiscal year for which the tax is levied.

§ 99-26. Notice to residents.

On or before the first day of July 1965, the Collector shall send to every resident of the Borough of Heidelberg over the age of 18 years a notice of the per capita tax due by such resident for the fiscal year 1965. Such notice shall be on a form prescribed by the Council of the Borough of Heidelberg; provided, however, that the failure or omission of the Collector to send or of any taxpayer to receive such notice shall not relieve such person from the payment of such tax, and provided further that any person who shall become a resident of the Borough of Heidelberg after the first day of January 1965 shall not be liable for the per capita tax for that fiscal year and any person who shall cease to be a resident at any time after the first day of January 1965 shall be liable for the full amount of the per capita tax for such year.

§ 99-27. Discount and penalty.

All taxpayers subject to the payment of the tax under this article shall be entitled to a discount of 2% on the amount of such tax upon making payment of the whole amount thereof within two months after the date of the tax notice. All taxpayers who shall fail to make payment of any such taxes imposed against them for four months after the date of the notice shall be charged a penalty of 5%, which penalty shall be added to the taxes by the Collector and collected by him. The Collector shall furnish a receipt to every person paying such tax.

§ 99-28. Collection of taxes.

All taxes levied under this article, together with all penalties, shall be recoverable by the Collector in the manner authorized by law in the case of borough per capita taxes within the

Commonwealth of Pennsylvania, and further, the Tax Collector may institute proceedings for the recovery of taxes due and unpaid under this article.

§ 99-29. Violations and penalties. [Amended 11-21-2000 by Ord. No. 539]

Any person who violates any provision of this article shall, upon conviction thereof, be punishable by a fine of not more than \$600 and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for a period not to exceed 30 days.

§ 99-30. When effective; continuation.

This article shall become effective 30 days after the date of its adoption, and the tax shall continue in force on a calendar or fiscal year basis, as the case may be, without annual reenactment unless the rate of the tax is subsequently changed.

ARTICLE IV
Mercantile Tax

[Adopted 7-15-1980 as Ch. 99, Art. IV, of the 1980 Code]

§ 99-31. Definitions.

The following words and phrases when used in this article shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

GROSS VOLUME OF BUSINESS — Includes both cash and credit transactions.

PERSON — Any individual, partnership, limited partnership, association or corporation.

PRECEDING YEAR — The borough fiscal year preceding the current borough fiscal year.

RETAIL DEALER OR RETAIL VENDOR — Any person who is a dealer in goods, wares and merchandise at retail and by proprietors of restaurants or other places where food, drink and refreshments are served.

TAX COLLECTOR — The duly elected or appointed Tax Collector of the Borough of Heidelberg.

TAX YEAR — The current borough fiscal year.

WHOLESALE DEALER OR WHOLESALE VENDOR — Any person who sells to dealers in or vendors of goods, wares and merchandise and to no other persons.

§ 99-32. Imposition of tax; continuation.

There is hereby levied and assessed a mercantile tax at the rates hereinafter set forth, said tax to be effective July 1, 1978, and to continue in force on a calendar year basis, without annual reenactment unless the rate of the tax is subsequently changed.

§ 99-33. Exemption.

The provisions of this article shall not apply to nonprofit corporations or associations organized for religious, charitable or educational purposes; agencies of the government of the

United States or of the Commonwealth of Pennsylvania; or of any person, firm, company, partnership, limited partnership or corporation vending or disposing of articles of his or their own production or manufacture; or to the gross receipts from utility service of any person, firm, company or corporation whose rates and services are fixed and regulated by the Public Utility Commission.

§ 99-34. Tax rate for retail dealers.

Every person engaged as a retail dealer on July 1, 1978, shall pay a mercantile tax for said tax year at the rate of 11/2 mills (\$0.0015) on each dollar of the whole volume of business transacted by such retail dealer. No such tax is levied on the dollar volume of business transacted by said retail dealer derived from the resale of goods, wares and merchandise taken by any such dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

§ 99-35. Tax rate for wholesale dealers.

Every person engaged as a wholesale dealer in goods, wares and merchandise on July 1, 1978, shall pay a mercantile tax for said tax year at the rate of one mill (\$0.001) on each dollar of the whole volume of business transacted by said wholesale dealer. No such tax shall be levied on the dollar volume of business transacted by wholesale dealers derived from the resale of goods, wares and merchandise taken by any such dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

§ 99-36. Computation of volume of business.

Every person subject to the payment of the tax hereby imposed shall compute his gross or whole volume of business upon the actual gross amount of business transacted by him during the preceding borough fiscal year.

§ 99-37. Tax returns.

- A. Every return shall be made upon a form furnished by the Tax Collector. Every person making a return shall verify the correctness thereof by affidavit.
- B. Every return shall contain the name of the person filing, his business and his business address and such other information as may be necessary in arriving at the actual gross amount of the business transacted or annual gross amount of the business transacted and the amount of the tax due.
- C. Every person subject to the tax shall file his return and pay his tax quarterly, with each quarterly return being filed and the tax being paid within 30 days of the end of each quarter. Each person shall file a fourth quarter return showing the calendar year receipts and payments.

§ 99-38. Payment of tax.

At the time of filing the return, the person making the same shall pay the amount of tax shown as due thereon to the Tax Collector.

§ 99-39. Duties of Tax Collector.

- A. It shall be the duty of the Tax Collector to collect and receive the taxes, fines and penalties imposed by this article. It shall also be the Tax Collector's duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipts.
- B. The Tax Collector is hereby charged with the administration and enforcement of the provisions of this article and is hereby empowered to prescribe, adopt and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the reexamination and correction of returns and payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Tax Collector shall have the right of appeal to the Court of Common Pleas as in other cases provided.
- C. The Tax Collector is hereby authorized to examine the books, papers and records of any taxpayer or supposed taxpayer in order to verify the accuracy or any returns made or, if no return was made, to ascertain the tax due.

§ 99-40. Recovery of taxes and penalties.

All taxes imposed by this article, together with all penalties imposed under this article, shall be recoverable by the Borough of Heidelberg as other debts are recoverable.

§ 99-41. Interest on unpaid taxes; costs.

If for any reason the tax is not paid when due in such tax year, interest at the rate of 6% per annum on the amount of said tax and an additional penalty 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 such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties that are herein imposed.

§ 99-42. Violations and penalties. [Amended 11-21-2000 by Ord. No. 539]

Any person who violates any provision of this article shall, upon conviction thereof, be punishable by a fine of not more than \$600 and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for a period not to exceed 30 days.

§ 99-43. Applicability.

- A. Nothing contained in this article shall be construed to empower the borough to levy and collect the tax hereby imposed on any person or any business or any portion of any business not within the taxing power of the borough under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
- B. If the tax or any portion thereof imposed upon any person 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 the Commonwealth of Pennsylvania, the decision of the court shall not affect or impair the right to impose the tax or the validity of the tax so imposed upon other persons as herein provided.

ARTICLE V

Business Privilege Tax

[Adopted 7-15-1980 as Ch. 99, Art. VI, of the 1980 Code]

§ 99-44. Title.

This article shall be known and may be cited as the "Business Privilege Tax Ordinance."

§ 99-45. Definitions.

As used in this article, unless the context indicates clearly a different meaning, the following words and phrases shall have the meanings set forth below:

BOROUGH — The Borough of Heidelberg, a municipal corporation.

BUSINESS — Carrying on or exercising, whether for gain or profit or otherwise, within the Borough of Heidelberg any trade, business, including but not limited to financial business as hereinafter defined, profession, vocation, service, construction, communication or commercial activity or making sales to persons or rendering services from or attributable to a place of business. "Business" shall not include the following: any portion of gross receipts of a business upon which the Borough of Heidelberg shall assess and collect a mercantile tax; the business of any political subdivision; any employment for a wage or salary; or any business upon which the power to levy a tax is withheld by law.

FINANCIAL BUSINESS — The services and transactions of banks and bankers, trust, credit and investment companies, where not prohibited by law, holding companies, dealers and brokers in money, credits, commercial paper, bonds, notes, securities and stocks, monetary metals, factors and commission merchants.

GROSS RECEIPTS — Cash, credits or property of any kind or nature received in or allocable or attributable to the Borough of Heidelberg from any business or by reason of any sale made, including resales of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares or merchandise, or services rendered or commercial or business transaction had within the Borough of Heidelberg, without deduction therefrom on account of the cost of property sold, materials used, labor, service or other cost, interest or

discount paid or any other expense. "Gross receipts" shall include both cash and credit transactions. "Gross receipts" shall exclude:

- A. The amount of any allowance made for goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares and merchandise in the usual and ordinary course of his business.
- B. In the case of a financial business, the cost of securities and other property sold, exchanged, paid at maturity or redeemed and moneys or credits received in repayment of advances, credits and loans, but not to exceed the principal amount of such advances, credits and loans, and shall also exclude deposits.
- C. In the case of a broker, or commissions paid by him to another broker on account of a purchase or sales contract initiated, executed or cleared in conjunction with such other broker.
- D. Receipts by dealers from sales to other dealers in the same line where the dealer transfers title or possession at the same price for which he acquired the goods, wares or merchandise.
- E. Receipts or that portion thereof attributable to interstate or foreign commerce or to an office or place of business regularly maintained by the taxpayer outside the limits of the Borough of Heidelberg, and not for the purpose of evading payment of this tax, and those receipts which the borough is prohibited from taxing by law. Such receipts shall be segregated as set forth in § 99-47C of this article.

PERSON — Any natural person, partnership, unincorporated association or corporation, nonprofit or otherwise. Whenever used in any provision prescribing a fine or a penalty, the word "person" as applied to partnerships shall mean the partners thereof and as applied to corporations and unincorporated associations shall mean the officers thereof.

TAX COLLECTOR — The Tax Collector of the Borough of Heidelberg.

TAX YEAR — The twelve-month period from January 1 to December 31.

TEMPORARY, SEASONAL OR ITINERANT BUSINESS — Any business that is conducted at one location for less than 60 consecutive calendar days.

WHOLESALE DEALER OR WHOLESALE VENDOR — Any person who sells to dealers in or vendors of goods, wares and merchandise.

§ 99-46. Imposition of tax.

Every person engaging in any business in the Borough of Heidelberg beginning with the tax year 1980 and annually thereafter shall pay an annual tax at the rate of one mill on each dollar of volume of the gross annual receipts thereof, except that the gross volume of wholesale business transacted by wholesale dealers in goods, wares and merchandise is taxable at the rate of one mill as set forth in Section 8 of Act 511 of 1965 (53 P.S. § 6908).

§ 99-47. Computation of gross receipts; other taxes.

- A. All taxes under this article are imposed as of January 1, 1980, and shall be based on actual gross receipts received by the business during the calendar year.
- B. Any person who commences business subsequent to January 1, 1980, shall compute his gross receipts on a monthly basis and shall pay a tax imposed on the actual gross receipts received during the remainder of the calendar year. Said person shall file quarterly returns and pay a tax on the gross receipts during the months that the person was in business within the Borough of Heidelberg.
- C. Where a receipt in its entirety cannot be subjected to the tax imposed by this article by reason of the provisions of the Constitution of the United States or any other provision of law, including the exemptions within this article, the Tax Collector shall establish rules and regulations and methods of allocation and evaluation so that only that part of such receipt which is properly attributable and allocable to the doing of business in the Borough of Heidelberg shall be taxed hereunder. The Tax Collector may make such allocation with due regard to the nature of the business concerned on the basis of millage division of the receipt according to the number of jurisdictions in which it may be taxed, the ratio of the value of the property or assets of the taxpayer owned and situated in the Borough of Heidelberg to the total property or assets of the taxpayer wherever owned and situated or any other method or methods of calculation other than the foregoing calculated to effect a fair and proper allocation. Every person who ceases to carry on a business during any tax year shall be permitted to apportion his tax for such tax year and shall pay for such tax year an amount to be computed by multiplying his gross receipts for the preceding full calendar year by a fraction whose numerator shall be the number of months such person was in business during the tax year and whose denominator shall be 12.
- D. Every person subject to the payment of the tax hereby imposed who engages in a business which is temporary, seasonal or itinerant by its nature shall compute his annual gross receipts upon the actual gross receipts received by him during such tax year.
- E. Every person subject to the payment of the tax hereby imposed and who is also subject to the occupational privilege tax or a mercantile tax levied by borough ordinance may deduct said occupational privilege tax or mercantile tax payment from the amount of tax due and owing under the provisions of this article.

§ 99-48. Registration and tax returns.

- A. Every person subject to the tax imposed by this article shall forthwith register with the Tax Collector and set forth his name, address, business address and the nature of the business activity in which he is engaged.
- B. Every return shall be made upon a form furnished by the Tax Collector. Every person making a return shall certify the correctness thereof.
- C. Any person subject to the tax on January 1, 1980, or who becomes subject to the tax by commencing a business subsequent to January 1, 1980, shall file a quarterly return and pay on account the tax due.

- D. Returns shall be made for the following quarters and shall be filed by the due date along with payment of any tax liability:

Quarters	Due Date
January 1 to March 31	April 15
April 1 to June 30	July 15
July 1 to September 30	October 15
October 1 to December 31	January 15

- E. Commencing on April 15, 1981, and annually thereafter, each person shall file a final return upon a form furnished by the Tax Collector and at said time shall cause to be paid any additional taxes due and not reported in the preceding calendar year.
- F. Every person subject to the payment of the tax imposed by this article who engages in a business which is temporary, seasonal or itinerant by its nature shall, within seven days from the day he completes such business, file a return with the Tax Collector setting forth his name, his business, his business address and such other information as may be necessary in arriving at the actual gross volume of business during the tax period and the amount of the tax due.

§ 99-49. Payment of tax.

The person making the return shall at the time of filing the return pay the amount of tax shown as due thereon to the Tax Collector.

§ 99-50. Powers and duties of Tax Collector.

- A. It shall be the duty of the Tax Collector to collect and receive the taxes, fines and penalties imposed by this article. It shall also be the Tax Collector's duty to keep a record showing the amount received from each person paying the tax and the date of such receipts.
- B. The Tax Collector is hereby charged with the administration and enforcement of the provisions of this article 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 provisions for the reexamination and correction of returns and payments alleged or found to be incorrect or as to which an over-payment is claimed or found to have occurred, and to make refunds where necessary. Any person aggrieved by any decision of the Tax Collector shall have the right to appeal to court as in other cases provided.
- C. The Tax Collector is hereby authorized to compel the production of books, papers and records and the attendance of all persons before the Tax Collector, whether as parties or as witnesses whom the Tax Collector believes to have knowledge of such receipts.

- D. The Tax Collector is hereby authorized to examine the books, papers and records of any taxpayer or supposed taxpayer in order to verify the accuracy of any return made or, if no return was made, to ascertain the tax due. Every such taxpayer or supposed taxpayer is hereby directed and required to give to the Tax Collector the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

§ 99-51. Recovery of unpaid taxes; late penalty.

- A. The Tax Collector may sue for the recovery of taxes due and unpaid under this article.
- B. If for any reason the tax is not paid when due in each year, interest at the rate of 6% per annum and an additional penalty of 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.

§ 99-52. Violations and penalties. [Amended 11-21-2000 by Ord. No. 539]

Whoever makes any false or untrue statement on his return or who refuses to permit inspection of the books, records or accounts of any business in his custody or control when the right to make such inspection by the Tax Collector is requested and whoever fails or refuses to file a return required by this article shall, upon conviction before any District Justice, be sentenced to pay a fine of not more than \$600 for each offense and, in default of payment of said fine, be imprisoned in Allegheny County Jail or Allegheny County Workhouse for a period not exceeding 30 days for each offense.

§ 99-53. Applicability and severability.

- A. Nothing contained in this article shall be construed to empower the Borough of Heidelberg to levy and collect the taxes hereby imposed on any person or any business or any portion of any business not within the taxing power of the Borough of Heidelberg under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.
- B. If the tax, or any portion thereof, imposed upon any person 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 Commonwealth of Pennsylvania, the decision of the court shall not affect or impair the right to impose the taxes or the validity of the taxes so imposed upon other persons as herein provided.
- C. If a final decision of a court of competent jurisdiction holds any provision of this article or the application of any provision to any circumstances to be illegal or unconstitutional, the other provisions of this article or the application of such provision to other circumstances shall remain in full force and effect. The intention of the Council is that the provisions of this article shall be severable and that this article would have been adopted if any such illegal or unconstitutional provisions had not been included.

§ 99-54. Payment under protest; refund.

The Borough Tax Collector is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the borough in any case where the taxpayer disputes the validity or amount of the borough's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that the borough has been overpaid, the amount of the overpayment shall be refunded to the taxpayer.

§ 99-55. Effective date.

The provisions of this article shall become effective January 1, 1980, and shall remain in effect thereafter from year to year on a calendar basis.

ARTICLE VI

Realty Transfer Tax

[Adopted 3-17-1987 by Ord. No. 382, approved 3-17-1987]

§ 99-56. Short title.

This article shall be known as the "Realty Transfer Tax Ordinance of Heidelberg Borough."

§ 99-57. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within Heidelberg Borough, regardless of where the documents making the transfer are made, executed or delivered or where the actual settlements on such transfer took place, as authorized by Article XI-D, Local Real Estate Transfer Tax, 72 P.S. § 8101-D et seq.

§ 99-58. Definitions. [Amended 11-21-2000 by Ord. No. 539]

As used in this article, the words and phrases defined in 72 P.S. § 8101-C shall have the meanings ascribed to them in said section.

§ 99-59. Imposition of tax; interest

- A. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording shall be subject to pay for and in respect to the transaction or any part thereof a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.
- B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Recorder, whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.

- C. It is the intent of this article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. § 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer, then the tax levied by the Heidelberg Borough under the authority of that Act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be 1/2 of the rate, and such 1/2 rate shall become effective without any action on the part of Heidelberg Borough; provided, however, that the Heidelberg Borough and any other political subdivision which imposes such tax on the same person or transfer may agree that, instead of limiting their respective rates to 1/2 of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.
- D. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due shall be added and collected.

§ 99-59.1. Tax imposed; administration; interest. [Added 2-20-2007 by Ord. No. 570, approved 2-20-2007]

- A. Imposition of tax. Heidelberg Borough has adopted the provisions of Article XI-D of the Tax Reform Code of 1971 and which 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%.
- B. Administration. The tax imposed under Subsection A 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,"² provided that if the correct amount of the tax is not paid by the last date prescribed for timely payment, Heidelberg Borough, 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.
- C. Interest. Any tax imposed under Subsection A 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.

§ 99-60. Exempt parties.

The United States, the commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this article. The exemption

2. Editor's Note: See 53 P.S. § 6901 et seq.

of such governmental bodies shall not, however, relieve any other party to a transaction from the liability for the tax.

§ 99-61. Excluded transactions.

A. The tax imposed by § 99-47 shall not be imposed upon:

- (1) A transfer to the commonwealth or to any of its instrumentalities, agencies or political subdivisions by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments, provided that said reconveyance is made within one year from the date of condemnation.
- (2) A document which the Heidelberg Borough is prohibited from taxing under the Constitution or statutes of the United States.
- (3) A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at Sheriff sale or Tax Claim Bureau sale.
- (4) A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- (5) A transfer of division in kind for no or nominal actual consideration or property passed by testate or intestate succession and held by cotenants; however, if any of

the parties take shares greater in value than their undivided interest, tax is due on the excess.

- (6) A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided that the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.
- (7) A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- (8) A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- (9) A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- (10) A transfer for no or nominal actual consideration from trustee to successor trustee.
- (11) A transfer for no or nominal actual consideration between principal and agent or straw party; or from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this article. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from or for the benefit of his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.
- (12) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the Department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article.
- (13) A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the

corporation or the interest in the association has been held by the grantee for more than two years.

- (14) A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
- (15) A transfer from a nonprofit industrial development agency or authority to grantee purchasing directly from it, but only if the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and the agency or authority has the full ownership interest in the real estate transferred.
- (16) A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- (17) Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- (18) A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954 [68A Stat. 3, 26 U.S.C. § 501(c)(3)] and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities; or a transfer from such a conservancy to the United States, the commonwealth or to any of their instrumentalities, agencies or political subdivisions; or any transfer from such a conservancy where the real estate is encumbered by a perpetual agricultural conservation easement as defined the act of June 30, 1981 (P.L. 128, No. 43), known as the "Agricultural Area Security Law," and such conservancy has owned the real estate for at least two years immediately prior to the transfer. **[Amended 11-21-2000 by Ord. No. 539]**
- (19) A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
- (20) A transfer of real estate devoted to the business of agriculture to a family farm partnership by a member of the same family, which family directly owns at least 75% of the interests in the partnership. **[Added 11-21-2000 by Ord. No. 539]**
- (21) A transfer between members of the same family of an ownership interest in a real estate company, family farm corporation or family farm partnership which owns real estate. **[Amended 11-21-2000 by Ord. No. 539]**
- (22) A transaction wherein the tax due is \$1 or less.

- (23) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.
- B. In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this article.

§ 99-62. Documents relating to associations or corporations.

Except as otherwise provided in § 99-49, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

§ 99-63. Acquired companies.

- A. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three years.
- B. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this article.
- C. A family farm partnership is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm partnership or when, because of transfer of partnership interests or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm partnership under this article. [Added 11-21-2000 by Ord. No. 539]
- D. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the Recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

§ 99-64. Credits against tax.

- A. Where there is a transfer of a residential property by a licensed real estate broker, which property was transferred to him within the preceding year as consideration for the

purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.

- B. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
- C. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
- D. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
- E. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount or tax due, no refund or carryover credit shall be allowed.

§ 99-65. Extension of lease.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

§ 99-66. Proceeds of judicial sale.

The tax herein imposed shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made, except the state realty transfer tax, and the Sheriff or other officer conducting said sale shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

§ 99-67. Duties of Recorder of Deeds.

- A. As provided in 16 P.S. § 11011-6, as amended by Act of July 7, 1983, P.L. 40, No. 21, the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to Heidelberg Borough based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from Heidelberg Borough.
- B. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

- C. On or before the 10th of each month, the Recorder shall pay over to Heidelberg Borough all local realty transfer taxes collected, less 2% for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The two-percent commission shall be paid to the county.
- D. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only when both the state and local amounts and a rerecording or recording fee has been tendered.

§ 99-68. Statement of value.

Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein and as a part of such document the true, full and complete value thereof or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of each subsection shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented or the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article.

§ 99-69. Violations and penalties.

- A. If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
- B. In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

§ 99-70. Lien.

The tax imposed by this article shall become a lien upon the lands, tenements or hereditaments or any interest therein lying, being situated, wholly or in part, within the boundaries of the Heidelberg Borough, which lands, tenements, hereditaments or interest therein are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this article, said lien to begin at the time when the tax under this article is due and payable and to continue until discharge by payment or in accordance with the law and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Allegheny County, in accordance with the provisions of the

Municipal Claims and Tax Liens Act of 1923, 53 P.S. § 7101 et seq., its supplements and amendments.

§ 99-71. Recovery.

All taxes imposed by this article, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

§ 99-72. Enforcement.

The designee of Heidelberg Borough is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. § 8101-C et seq. are incorporated into and made a part of this article.

ARTICLE VII

Property Tax Relief for Senior Citizens

[Adopted 12-20-1994 by Ord. No. 508, approved 12-20-1994]

§ 99-73. 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 the definition of "Act 77" above.

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

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

ELIGIBLE TAXPAYER — A longtime owner/occupant of a principal residence in the Borough of Heidelberg who is a single person aged 65 or older during a calendar year in which county real property taxes are due and assessed; or married persons if either spouse is 65 or older during a calendar year in which Heidelberg Borough 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, the gross amount of any pensions or annuities, including railroad retirement benefits, all benefits received under the Federal Social Security Act (except Medicare benefits) all benefits received under state unemployment insurance laws and

veterans' 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) and gifts of cash or property (other than transfers by gift between members of a household) in excess of a total value of \$300 but shall not include surplus food or other relief in kind supplied by a governmental agency or property tax or rent rebate or inflation dividend.

LONGTIME OWNER/OCCUPANT — Any person who for at least 10 continuous years has owned or has occupied the same dwelling place 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.

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.

SENIOR CITIZENS REBATE AND ASSISTANCE ACT — The Act of March 11, 1971, Public Law 104, No. 3, as amended, codified as 72 P.S. § 4751-1 et seq.

§ 99-74. Limitation of assessment for eligible taxpayers.

All eligible taxpayers in the Borough of Heidelberg who are longtime owner/occupants shall be entitled to have the assessment on his or her principal residence maintained at or limited to the amount determined by the Department of Property Assessment for the calendar year 1993 if the eligible taxpayer meets the household income limits for qualification for any amount of property tax rebate under the Senior Citizens Rebate and Assistance Act. To the extent that the county may establish different assessment levels for certain eligible taxpayers in calendar years subsequent to 1995, such levels shall also apply in the Borough of Heidelberg as to such eligible taxpayers.

§ 99-75. Participation in limitation of tax assessment program.

- A. Any person paying property taxes in the Borough of Heidelberg may apply to participate in the assessment limitation program authorized under this article. In order to be eligible to participate in the program, the person must meet the following conditions:
- (1) The person must be a single person aged 65 or older or be married persons with either spouse being 65 years of age or older.
 - (2) The person must be a longtime owner/occupant.
 - (3) The property owned by the person must be the principal residence and domicile of the resident.

- (4) The person's household income must qualify him or her to receive any amount of property tax rebate under the Senior Citizens Rebate and Assistance Act.
- B. Determinations as to eligibility made by the Department of Property Assessment shall be accepted by the Borough of Heidelberg for the purposes of administering this program of tax relief.

§ 99-76. Rules and regulations.

The Department of Property Assessment and the borough's Secretary shall have the authority to issue rules and regulations with respect to the administration of the limitation of tax assessment program established under this article. Such rules and regulations shall include but not be limited to reasonable proof of household income, proof of residence, proof of qualification for or receipt of a property tax rebate under the Senior Citizens Rebate and Assistance Act and any other reasonable requirements and conditions as may be necessary to operate the tax assessment limitation program.