

Chapter 24

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Part 1**Admissions Tax****§24-101. Title.**

This Part shall be known and may be cited as the “Borough Admissions Tax Ordinance.”

(*Ord. 289, 11/8/1976*)

§24-102. Definitions.

1. Unless otherwise expressly stated, the following terms shall have, for the purpose of this Part, the meanings herein respectively indicated:

Admission - monetary charges of any character whatever, including donations, contributions and dues, or membership fees (periodical or otherwise) charged or paid or in any manner received by a producer, as herein defined, from the general public or a limited or selected number thereof, directly or indirectly, for the privilege of attending or engaging in any amusement, as herein defined. “Admission” shall not include any tax added to the charge, provided that in the case of persons (except bona fide employees of the producer or Borough officers on official business) admitted free or at reduced rates at a time when, and under circumstances under which, an established price is charged to other persons, the term “admission” shall mean the established price charged to other persons.

Amusement - all manner and form of entertainment including, but not limited to, the following: theatrical performance, operatic performance, carnival, circus, show, concert, sports event, swimming or bathing pool, vaudeville show, side show, amusement park and all forms of entertainment therein, dancing, golf courses, including miniature golf and pitch and putt, driving ranges, bowling alley, billiard game, athletic contest and any other form of diversion, sport, pastime or recreation for which admission is charged or paid, provided that “amusement” shall not include any form of entertainment, the proceeds of which, after payment of reasonable expenses, inure exclusively to the benefit of any religious, educational or charitable institution, society or organization.

Established price - the monetary charge of any character, including donations and contributions fixed and exacted or in any manner received by producers, as herein defined, from the general public or a limited or selected number thereof, directly or indirectly, for the privilege of attending or engaging in any amusement.

Person - includes any natural person, copartnership, association, firm or corporation. Whenever used in any clause prescribing and imposing a penalty, or both, the term “person,” as applied to a copartnership or association, shall mean the partners or members thereof and as applied to a corporation shall mean the officers thereof.

Place of amusement - any place, indoors or outdoors, within the Borough of Thornburg where the general public or a limited or selected number thereof may, upon payment of an established price, attend or engage in any amusement, as herein defined.

Producer - any person, as herein defined, conducting any place of amusement, as herein defined, where the general public or a limited or selected number thereof may, upon payment of an established price, attend or engage in any amusement.

Tax Collector - the person appointed to administer the provisions of this Part, to collect the taxes levied hereunder and to enforce the provisions of the same. [Ord. 7/12/1999]

2. *Word Usage.* In this Part, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

(Ord. 289, 11/8/1976; as amended by Ord. 7/12/1999)

§24-103. Imposition of Tax.

A tax is hereby imposed, for general Borough purposes, under the authority of the Local Tax Enabling Act, being Act No. 511 of the Legislature of the State of Pennsylvania, and its amendments, 53 P.S. §6901 *et seq.*, at the rate of 5 percent of the price of admission to each and every amusement within the Borough of Thornburg; provided, that the producer shall be responsible for collecting such tax; provided, further, that where no fixed admission is charged, the tax shall be based upon the gross admissions collected and shall be paid by the producer.

(Ord. 289, 11/8/1976; as amended by Ord. 297, 12/10/1979)

§24-104. Application Contents.

1. On and after the first day of January, 1979, any person desiring to conduct or to continue to conduct any amusement within the Borough shall file with the Borough Tax Collector an application for a permanent amusement permit or a temporary amusement permit, as the case may be, and shall pay the fee required by this Section. In the case of any amusement permit that is to continue for longer than 10 days, a permanent amusement permit shall be required and a fee therefor shall be in an amount as established from time to time by resolution of Borough Council. In the case of any amusement that is to continue for 10 days or fewer, a temporary amusement permit shall be required and the fee therefor shall be in an amount as established from time to time by resolution of Borough Council. [Ord. 387]

2. The Borough Tax Collector shall procure, at the expense of the Borough, a sufficient number of permit forms, on each of which the following information shall be printed or inserted by ink or by typewriter:

- A. The name of the Borough.
- B. Whether a temporary or permanent amusement permit.
- C. The name of the person receiving the permit.
- D. The location of the amusement covered by the permit.
- E. The type of amusement.

F. The period for which the permit is issued. (Permanent amusement permits shall be valid until the last day of December in the year the permit was issued; temporary permits shall be valid until the last day the amusement is conducted.) [Ord. 357]

- G. The number of the permit.

H. The date when the permit is issued.

I. The signature of the Borough's Tax Collector.

3. Every permit shall be issued in duplicate. The original, to which the Borough's seal shall be affixed, shall be given to the person applying for the permit, and the duplicate shall be kept on file by the Borough Tax Collector.

4. In case of the loss, defacement or destruction of any permit, the person to whom such permit was issued shall apply to the Borough Tax Collector, who shall issue a new permit for which a fee in an amount as established from time to time by resolution of Borough Council shall be charged. [*Ord. 387*]

5. The amusement admissions permit, for so long as it shall remain effective, shall be displayed at the place for which it was issued.

6. The Borough Tax Collector may suspend or, after hearing, revoke any amusement permit whenever he finds that the holder thereof has failed to comply with any of the provisions of this Part. Upon suspending or revoking any amusement permit, the Tax Collector shall request the holder thereof to surrender to him immediately all permits issued to him, and the holder shall surrender promptly all such permits to the Tax Collector as requested. Whenever the Tax Collector suspends an amusement permit, he shall notify the holder immediately and afford him a hearing, if desired, and if a hearing has not been already afforded. After such hearing, the Tax Collector will either rescind his order of suspension or, upon good cause appearing therefor, shall continue the suspension or revoke the permit.

(*Ord. 289, 11/8/1976; as amended by Ord. 357, 12/13/1996, §101-4; and by Ord. 387, 12/14/2009*)

§24-105. Free or Reduced Rates.

In the case of persons admitted free or at a reduced rate to any place of amusement at a time when and under circumstances in which an established price is charged to other persons, the tax imposed by this Part shall be computed on the established price charged to such other persons of the same class for the same or similar accommodations, to be paid by the person so admitted.

(*Ord. 289, 11/8/1976*)

§24-106. Collection.

1. Producers shall collect the tax imposed by this Part and shall be liable to the Borough of Thornburg as agents and trustees thereof for the payment of the same into the Borough Treasury, as hereinafter provided in this Part.

2. Where permits are obtained for conducting amusements by persons who are not the owners, lessees or custodians of the places where the amusements are to be conducted, the tax imposed by this Part shall be paid by the owner, lessee or custodian of such place of amusement unless paid by the producer conducting the amusement.

(*Ord. 289, 11/8/1976*)

§24-107. Reports and Payments.

1. Every producer to whom a permanent amusement permit shall have been issued shall, on or before the last day of each month, transmit to the Borough Tax

Collector a report, under oath or affirmation, of the total admissions charged or collected and the total amount of tax due from such producer upon such admissions under this Part for the preceding calendar month and at the same time shall pay over to the Borough Tax Collector the entire amount of the tax due.

2. Every producer to whom a temporary amusement permit shall have been issued shall, on or before the expiration of 2 days next following the close of each day on which such amusement is conducted, pay over to the Borough Tax Collector the amount of tax due from such person under this Part upon admissions for such day and at the same time shall submit to the Borough Tax Collector a report of the total admissions charged or collected on such day and the total amount of tax due on admissions under this Part. No later than the day next following the day of expiration of such temporary permit, the producer to whom such permit shall have been issued shall, in addition, submit a report, under oath or affirmation, of all admissions charged or collected during the period in which such temporary amusement permit was in effect and of all taxes due and paid thereupon and shall then pay over to the Borough Tax Collector the balance of any amount of tax due from such person under this Part.

3. Each producer, at the time of making every report required by this Part, shall compute and pay to the Tax Collector of the Borough of Thornburg the taxes collected by him and due to the Borough during the period for which such report is made; provided, however, that such producer may deduct therefrom 2 percent thereof, provided that payment is made on or before the due date thereof. All such taxes shall bear interest at the rate of $\frac{1}{2}$ of 1 percent per month or fractional part of a month from the date they are due and payable until paid.

4. If any producer shall neglect or refuse to make any report and/or payment as herein required, an additional 10 percent of the amount of tax shall be added by the Borough Tax Collector and collected from such producer.

(Ord. 289, 11/8/1976)

§24-108. Duties of Collector.

It shall be the duty of the Borough Tax Collector, hereinafter called the "Officer," to collect and receive the taxes, interest, and penalties prescribed by the provisions of this Part. He shall keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.

A. The Officer is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the reexamination and correction of declarations, returns and reports and of payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred and to make refunds in cases of overpayment for any period of time not to exceed 6 years subsequent to the date of payment of the sum involved and to prescribe forms necessary for the administration of this Part. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution of the Borough Council of the Borough of Thornburg. A copy of such rules and regulations currently in force shall be available for public inspection.

B. The officers and agents designated by him are hereby authorized to examine the books, papers and records of any producer or of any taxpayer or of any

person whom the Officer reasonably believes to be a producer or taxpayer in order to verify the accuracy of any declaration, return or report or, if no declaration, return and/or report was filed, to ascertain the tax due. Every producer and every taxpayer and every person whom the Officer reasonably believes to be a producer or taxpayer is hereby directed and required to give to the Officer or to any agent designated by him the means, facilities and opportunity for such examination and investigations as are hereby authorized.

C. Any information gained by the Officer, his agents or by any other official or agent of the Borough of Thornburg as a result of any declarations, returns, reports, investigations, hearings or verifications required or authorized by this Part shall be confidential, except for official purposes, and except in accordance with a proper judicial order or as otherwise provided by law.

(Ord. 289, 11/8/1976)

§24-109. Expenses.

All expenses incurred in the administration and/or enforcement of this Part shall be paid by the Borough.

(Ord. 289, 11/8/1976)

§24-110. Applicability.

This Part shall not apply to any person or property as to whom or as to which it is beyond the legal power of the Borough of Thornburg to impose the tax or duties herein provided for.

(Ord. 289, 11/8/1976)

§24-111. Suit for Collection of Tax.

1. The Tax Collector may sue in the name of the Borough for the recovery of taxes due and unpaid under this Part.

2. Suit to recover the tax imposed by this Part shall be begun within three years after such tax is due or within 3 years after the declaration, return or report has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

A. Where no declaration or return or report was filed by any person, although a declaration, return or report was required to be filed by him under provisions of this Part, there shall be no limitation.

B. Where an examination of the declaration, return or report filed by any person or of other evidence relating to such declaration, return or report in the possession of the Officer reveals a fraudulent evasion of taxes, there shall be no limitation.

C. In the case of substantial understatement of tax liability of 25 percent or more and no fraud, suit shall be begun within 6 years.

D. Where any producer has collected taxes under the provisions of this Part and has failed to pay the amount so collected to the Officer or where any producer has willfully failed or omitted to make the declaration and/or report required by

this Section, there shall be no limitation.

E. This Section shall not be construed to limit the Borough from recovering this tax by any other means provided by this Part.

3. The Officer may sue for recovery of an erroneous refund, provided that such suit is begun two years after the making of such refund, except that the suit may be brought within 5 years if it appears that any part of the refund was induced by fraud or misrepresentation of a material fact.

(*Ord. 289, 11/8/1976*)

§24-112. Compensation of Collector.

The Tax Collector shall be paid a commission equal to 2.8 percent of the tax collected hereunder.

(*Ord. 289, 11/8/1976; as amended by Ord. 7/12/1999*)

§24-113. Violations and Penalties.

Any person who shall be convicted by any magisterial district judge for violating or failing to carry out any of the provisions or requirements of this Part or of neglecting, failing or refusing to furnish complete and correct returns and/or reports or to pay over any tax levied by this Part at the time required or of knowingly making any incomplete, false or fraudulent return or of doing or attempting to do anything whatever to avoid the payment of the whole or any part of the tax imposed under this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 289, 11/8/1976; as amended by Ord. 357, 12/13/1996, §101-13; and by Ord. 387, 12/14/2009*)

§24-114. Failure to Receive Forms.

The failure of any person or producer to receive or procure the forms for making any application, declaration, return or report required by this Part and/or any regulation pursuant thereto shall not excuse him from making such declaration, return or report and/or paying the tax due under this Part.

(*Ord. 289, 11/8/1976*)

Part 2**Realty Transfer Tax****§24-201. Short Title.**

This Part shall be known as the “Realty Transfer Tax Ordinance of the Borough of Thornburg.”

(*Ord. 324, 12/8/1986*)

§24-202. 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 the Borough of Thornburg, 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.*

(*Ord. 324, 12/8/1986*)

§24-203. Definitions.

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

Association - a partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent’s estate.

Corporation - a corporation, joint-stock association, business trust or banking institution which is organized under the laws of this commonwealth, the United States or any other state, territory, foreign country or dependency.

Document - any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years or instruments which solely grant, vest or confirm a public utility easement. “Document” shall also include a declaration of acquisition required to be presented for recording under §24-208.4 of this Part.

Family farm corporation - a corporation of which at least 75 percent of its assets are devoted to the business of agriculture and at least 75 percent of each class of stock of the corporation is continuously owned by members of the same family. The business or agriculture shall not be deemed to include:

- (1) Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing.
- (2) The raising, breeding or training of game animals or game birds, fish,

cats, dogs or pets or animals intended for use in sporting or recreation activities.

- (3) Fur farming.
- (4) Stockyard and slaughterhouse operations.
- (5) Manufacturing or processing operations of any kind.

Family farm partnerships - a partnership of which at least 75 percent of its assets are devoted to the business of agriculture and at least 75 percent of the interests in the partnership are continuously owned by members of the same family. The business of agriculture shall not be deemed to include:

- (1) Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing.
- (2) The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities.
- (3) Fur farming.
- (4) Stockyard and slaughterhouse operations.
- (5) Manufacturing or processing operations of any kind.

[Ord. 357]

Members of the same family - any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood.

Person - every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person," as applied to associations, shall include responsible members or general partners thereof and as applied to corporations, the officers thereof.

Real estate -

(1) All lands, tenements or hereditaments within the Borough of Thornburg including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.

- (2) A condominium unit.
- (3) A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

Real estate company - a corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, 90 percent or more of the ownership interest in which is held by 35 or fewer persons and which:

- (1) Derives 60 percent or more of its annual gross receipts from the ownership or disposition of real estate.
- (2) Holds real estate, the value of which comprises 90 percent or more of

the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

Title to real estate -

(1) Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years including, without limitation, an estate in fee simple, life estate or perpetual leasehold.

(2) Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold including, without limitation, a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

Transaction - the making, executing, delivering, accepting or presenting for recording of a document.

Value -

(1) In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, the ground rents or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate, provided that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale.

(2) In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations.

(3) In the case of an easement or other interest in real estate the value of which is not determinable under subparagraph (1) or (2), the actual monetary worth of such interest.

(4) The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(*Ord. 324, 12/8/1986; as amended by Ord. 357, 12/13/1996, §101-17*)

§24-204. Imposition of Tax; Interest.

1. 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 percent 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.

2. 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.

3. It is the intent of this Part 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 Borough of Thornburg under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate, and such one-half rate shall become effective without any action on the part of the Borough of Thornburg; provided, however, that the Borough of Thornburg and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half 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.

4. Any tax imposed under this Part 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 maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims, which is 10 percent at the time of adoption of this amendment. [*Ord. 387*]

(*Ord. 324, 12/8/1986; as amended by Ord. 387, 12/14/2009*)

§24-205. 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 Part. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

(*Ord. 324, 12/8/1986*)

§24-206. Excluded Transactions.

1. The tax imposed by §24-204 shall not be imposed upon the following:

A. 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 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 1 year from the date of condemnation.

B. A document which the Borough of Thornburg is prohibited from taxing under the Constitution or statutes of the United States.

C. 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 Sheriffs sale or Tax Claim Bureau sale.

D. 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.

E. A transfer of division in kind for no or nominal actual consideration of 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.

F. 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 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 1 year shall be subject to tax as if the grantor were making such transfer.

G. 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.

H. 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.

I. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.

J. A transfer for no or nominal actual consideration from trustee to successor trustee.

K. 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 Part. 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 Section.

L. 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 Part.

M. 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 2 years.

N. 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 or the grantee or a transfer to a nonprofit industrial development agency or authority.

O. A transfer from a nonprofit industrial development agency or authority to a 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.

P. 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.

Q. 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.

R. A transfer to a conservancy which possesses a tax exempt status pursuant to §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. [*Ord. 357*]

S. 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 percent of each class of the stock thereof.

T. 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 percent of the interests in the partnership. [*Ord. 357*]

U. 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. [*Ord. 357*]

V. A transaction wherein the tax due is \$1 or less.

W. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

2. 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 Part.

(*Ord. 324, 12/8/1986; as amended by Ord. 357, 12/13/1996, §101-20*)

§24-207. Specific Transfer Documents.

Except as otherwise provided in §24-106, 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 Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(*Ord. 324, 12/8/1986*)

§24-208. Acquired Company.

1. 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 percent or more of the total ownership interest in the company within a period of 3 years.

2. 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 because of issuance or transfer of stock 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 corporation under this Part.

3. 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 Part. [*Ord. 357*]

4. 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.

(*Ord. 324, 12/8/1986; as amended by Ord. 357, 12/13/1996, §101-22*)

§24-209. Credits Against Tax.

1. 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.

2. 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.

3. 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.

4. 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.

5. 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 carry-over credit shall be allowed.

(Ord. 324, 12/8/1986)

§24-210. 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.

(Ord. 324, 12/8/1986)

§24-211. 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.

(Ord. 324, 12/8/1986)

§24-212. Administration, Enforcement and Collection. [Ord. 387]

1. 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 the Borough of Thornburg based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania Realty Transfer Tax, without compensation from the Borough of Thornburg.

2. 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.

3. On or before the tenth of each month, the Recorder shall pay over to the Borough of Thornburg all local realty transfer taxes collected, less 2 percent 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 2 percent commission shall be paid to the County.

4. 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.

5. The tax imposed under this Part and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965, P.L. 1257, No. 511, as amended, known as the "Local Tax Enabling Act"; provided, that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Borough of Thornburg, pursuant to §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 on behalf of the Borough. [Ord. 387]

(Ord. 324, 12/8/1986; as amended by Ord. 387, 12/14/2009)

§24-213. 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 Part. A copy of the Pennsylvania realty transfer tax statement of value may be submitted for this purpose. The provisions of this subsection shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationships. Other documents presented for 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 Part.

(Ord. 324, 12/8/1986)

§24-214. Civil Penalties.

1. If any part of any underpayment of tax imposed by this Part is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment.

2. In the case of failure to record a declaration required under this Part 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 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 50 percent in the aggregate.

(*Ord. 324, 12/8/1986*)

§24-215. Lien.

The tax imposed by this Part shall become a lien upon the lands, tenements or hereditaments or any interest therein lying or being situated, wholly or in part, within the boundaries of the Borough of Thornburg, 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 Part, said lien to begin at the time when the tax under this Part is due and payable, and 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 Claim and Tax Lien Law of 1923, 53 P.S. §7101 *et seq.*, its supplements and amendments.

(*Ord. 324, 12/8/1986*)

§24-216. Enforcement.

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

(*Ord. 324, 12/8/1986*)

§24-217. Additional Regulations.

The Treasurer of the Borough of Thornburg 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 Part.

(*Ord. 324, 12/8/1986*)

§24-218. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 324, 12/8/1986; as amended by Ord. 357, 12/13/1996, §101-32; and by Ord. 387, 12/14/2009*)

Part 3**Earned Income Tax****§24-301. Definitions.**

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

Association - a partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.

Borough - the Borough of Thornburg, Allegheny County, Pennsylvania.

Business - includes any enterprise, activity, profession, trade or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, copartnership, association or other entity.

Compensation - all salaries, wages, commissions, bonuses, incentive payments or other forms of compensation or remunerations, in cash or in kind, received by an individual and paid, directly or indirectly, by an employer for services rendered in the operation and conduct of any business.

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

Council - the Borough Council of the Borough of Thornburg, Allegheny County, Pennsylvania.

Earned income - compensation as determined under §303 of the Act of March 4, 1971, P.L. 6, No. 2, known as the "Tax Reform Code of 1971," and regulations in 61 Pa.Code, Pt. 1, subpt. B, Art. V (relating to personal income tax), not including however, wages or compensation paid to individuals on active military service. Employee business expenses are allowable deductions as determined under Article III of the Tax Refund Code of 1971. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income. [Ord. 377]

Earned income tax collector - the person appointed to administer the provisions of this Part, to collect the taxes levied hereunder and to enforce the provisions of the same.

Employee - any natural person resident in the Borough of Thornburg or employed therein upon whose compensation, as above defined, a tax is imposed by this Part.

Employer - any individual, copartnership, association, corporation, governmental body, unit or agency or any other entity which employs for compensation, as above defined, one or more employees upon whose compensation a tax is imposed by this Part.

Net profits - the net income from the operation of a business, profession, or other activity, except corporations, determined under §303 of the Act of March 4, 1971, P.L. 6, No. 2, known as the "Tax Refund Code of 1971," and regulations in 61 Pa.Code, Pt. 1, subpt. B, Art. V (relating to personal income tax). The term does not

include income which is not paid for services provided and is in the nature of earnings from an investment. 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 12 months or more for draft, breeding or dairy purposes.
- (4) Any gain on the sale of other capital assets of the farm.

[*Ord. 370*]

Person - every natural person, copartnership, association, firm or fiduciary. Whenever used in any clause prescribing and imposing a penalty, the term "person," as applied to associations, shall mean the partners or members thereof and as applied to corporations, the officers thereof.

Resident - any individual, copartnership, association or other entity resident or domiciled in the Borough of Thornburg, Allegheny County, Pennsylvania.

Taxpayer - any person who has reached the age of 18 years before December 31 of the tax year who has earned income or net profits in the tax year. Proof of age shall be provided to the Borough Tax Collector.

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

(*Ord. 343, 7/11/1994; as amended by Ord. 370, 9/8/2003, §I; and by Ord. 377, 12/13/2004, §I*)

§24-302. Incorporation of Statute.

The provisions of §13 of the Local Tax Enabling Act, 53 P.S. §6913, the supplements and amendments thereto from time to time enacted, are incorporated herein by reference thereto, except to the extent that options are provided in said §13, 53 P.S. §6913, this Part designates the option selected, and except as and where hereinafter specifically provided otherwise.

(*Ord. 343, 7/11/1994*)

§24-303. Imposition of Tax.

A tax for the general revenue purposes of a rate of ½ of 1 percent or as further determined from time to time by Borough Council is hereby imposed on salaries, wages, commissions and other compensation earned or paid after January 1 of any year by residents of the Borough of Thornburg. The tax levied under this Section shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to any natural person who is employed by or renders services to him.

(*Ord. 343, 7/11/1994*)

§24-304. Tax on Net Profits.

A general revenue tax of ½ of 1 percent or as further determined from time to time

by Borough Council is hereby levied on the net profits earned after January 1 of any year of businesses, professions or other activities conducted by the residents of Thornburg. The tax levied under this Section will relate to and be imposed on the net profits of any business, profession or enterprise carried on by any person as owner or proprietor, either individually or in association with some other person or persons.

(Ord. 343, 7/11/1994)

§24-305. Declarations, Returns and Payments of Tax.

1. Every taxpayer whose net profits are subject to the tax imposed by this Part shall file a declaration of his estimated net profits quarterly on or before April 30 of the current year, July 31 of the current year, October 31 of the current year or January 31 of the succeeding year and shall pay the tax due thereon and shall make and file final returns and pay to the officer any balance of the tax due on April 15 of the succeeding year.

2. Every taxpayer whose tax on earnings is not collected at the source pursuant to the provisions of this Part or of the Local Tax Enabling Act, 53 P.S. §6901 *et seq.*, shall make and file with the officer quarterly returns and shall pay quarter-annually 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 the amount of tax shown as due on such returns.

3. Every taxpayer whose earnings are subject to the tax imposed by this Part shall make and file final returns and pay to the officer the balance of the tax due, as provided in §13.III.B, first paragraph, of the Local Tax Enabling Act, 53 P.S. §6913.III.B.

4. The officer is hereby authorized to provide by regulation, subject to the approval of the Borough Council, that the return of an employer or employers showing the amount of tax deducted by said employer or employers from the salaries, wages, or commissions of any employee and paid by him or them to the officer shall be accepted as the return required of any employee whose sole income subject to the tax or taxes under this Part is such salary, wages or commissions.

(Ord. 343, 7/11/1994)

§24-306. Collection at Source.

Every employer having an office, factory, workshop, branch warehouse or other place of business within the Borough of Thornburg who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation shall register with the officer, deduct the tax imposed by this Part on the earned income of his employee or employees and make and file quarterly returns and final returns and pay quarterly to the officer the amount of taxes deducted as set forth in §13.IV of the Local Tax Enabling Act, 53 P.S. §6913.IV.

(Ord. 343, 7/11/1994)

§24-307. Administration.

The earned income tax officer shall be selected from time to time by resolution of Borough Council and shall receive such compensation for services and expenses as determined by the Borough Council. Such officer shall have the powers and duties and

shall be subject to the penalties as provided in the Local Tax Enabling Act, 53 P.S. §6901 *et seq.*

(*Ord. 343, 7/11/1994*)

§24-308. Confidentiality.

Any information gained by the collector or any other official or agent designated by the Council as a result of any returns, investigations, hearings or verifications required or authorized by this Part shall be confidential, except for official purposes and except in accordance with proper judicial order or as otherwise provided by law, and any person, official or agent divulging such information shall be subject to a fine or penalty of up to \$500 and costs for each offense.

(*Ord. 343, 7/11/1994; as amended by Ord. 357, 12/13/1996, §101-40*)

§24-309. Interest on and Recovery of Unpaid Taxes.

All taxes imposed by this Part remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at a rate of ½ of 1 percent per month or fraction of month until such tax is paid, and an additional penalty of ½ of 1 percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. All taxes imposed by this Part, together with all interest and penalties due thereon, shall be recoverable in an action in assumpsit brought in the name of the Borough or in such other manner as is now or may hereafter be authorized by law.

(*Ord. 343, 7/11/1994*)

§24-310. Violations and Penalties.

Any person convicted before any magisterial district judge of violating any of the provisions or requirements of this Article; or who shall fail, neglect or refuse to deduct the tax from the employee at the source and pay the same to the collector as required by this Part; or any person who shall fail, neglect or refuse to pay the tax, penalties and interest imposed by this Part; or any person who shall refuse to permit the collector or any person designated by the Council, in writing, to examine his books, records and papers; or who shall knowingly make any incomplete, false or fraudulent return; or who shall attempt to do anything whatever to avoid the full disclosure of the amount of compensation or other net income to avoid the payment of the whole or any part of the tax shall be subject to a fine or penalty of up to \$500 and costs of such offense or to undergo imprisonment for not more than 30 days for the nonpayment of such fine or penalty and costs within 10 days from the imposition thereon. Such fine and penalty shall be in addition to any other penalty imposed by any other section of this Part. Information charging any such violation may be made by the collector or by such other person or persons as may from time to time be authorized to do so by the Council.

(*Ord. 343, 7/11/1994; as amended by Ord. 387, 12/14/2009*)

§24-311. Failure to Receive or Procure a Return.

The failure of any employer or any persons to receive or procure a return from the collector shall not constitute an excuse from making a return.

(*Ord. 343, 7/11/1994*)

§24-312. Applicability.

This Part shall not apply to any person or property as to whom or which it is beyond the legal power of the Borough Council to impose the tax or duties herein provided for.

(Ord. 343, 7/11/1994)

§24-313. Additional Provisions.

1. *Adoption of Rules and Regulations.* The Council of the Borough of Thornburg may, by resolution, adopt, promulgate and enforce rules and regulations for the purpose of administration and enforcement of the provisions of this Part, including provision for the reexamination and correction of returns and payments alleged or found to be incorrect or as to which an overpayment or underpayment is claimed or found to have occurred.

2. *Administration and Enforcement.* The Borough Tax Collector is charged with the administration and enforcement of this Part and the resolutions promulgated pursuant to it and is authorized to act on behalf of the Borough of Thornburg in such administrative and enforcement matters.

(Ord. 343, 7/11/1994)

Part 4**Local Services Tax****§24-401. Title.**

This Part shall be known and be cited as the “Local Services Tax Ordinance.”
(*Ord. 383, 11/12/2007, §1*)

§24-402. Definitions.

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

Borough - the Borough of Thornburg.

Collector - the person, public employee or private agency designated by the Borough 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 §13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, §13 as amended. 53 P.S. §6913, as amended.

Employer - an individual, partnership, association, institution, trust, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons in any occupation other than domestic servants, 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 political subdivision.

Net profits - the net income from the operation of a business, profession; or other activity, as this term is defined in §13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1251, §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, 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.

Tax - the local services tax at the rate fixed in this Part.

Tax year - the period from January 1 until December 31 in any year; meaning a calendar year.

(*Ord. 383, 11/12/2007, §2*)

§24-403. 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 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 as established from time to time by the Borough Council, assessed on a pro rata basis, in accordance with the provisions of this Part. This tax may be used solely for the following purposes as the same may be allocated by the Borough from time to time for: (A) emergency services, which shall include emergency medical services, police services and/or fire services; (B) road construction and/or maintenance; (C) reduction of property taxes; or (D) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85, Subch. F (relating to homestead property exclusion). The Borough shall use no less than 25 percent 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. 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 maybe employed.

(Ord. 383, 11/12/2007, §3)

§24-404. Exemption and Refunds.

1. *Exemption.* Any person whose total earned income and net profits from all sources within the Borough is less than \$12,000 for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

A. Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans Administration or its successor to be a total 100 percent disability.

B. Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this paragraph, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

2. *Procedure to Claim Exemption.*

A. (1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the Borough and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of less than \$12,000 in the calendar year for which the exemption certificate is filed. A copy of the exemption certificate shall be provided to the Borough Secretary or other designated collector. 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 clause; and (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 Borough.

B. With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the Borough that the person has received earned income and net profits from all sources within the Borough equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned 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 paragraph .C of this subsection.

C. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under paragraph .B of this subsection, 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 paragraph .B, 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 Part.

D. Except as provided in paragraph .B, 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.

3. *Refunds.* The Borough, 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 Secretary or other designated Collector shall determine eligibility for exemption and provide refunds to exempt persons.

(*Ord. 383, 11/12/2007, §4*)

§24-405. Duty of Employers to Collect.

1. Each employer within the Borough, as well as those employers situated outside the Borough but who engage in business within the Borough, 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 and making a return and payment thereof to the Borough Secretary or other designated 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 Borough.

2. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the 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 $\frac{1}{100}$ of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in subsection .4 of this Section. For purposes of this subsection, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.

3. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

4. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

5. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed. The Borough shall provide a taxpayer a receipt of payment upon request by the taxpayer.

6. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the Borough if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or plates of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of subsection .2 of §24-404 of this Part and this Section and remits the amount so withheld in accordance with this Part.

7. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of a calendar year.

(Ord. 383, 11/12/2007, §5)

§24-406. Returns.

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

(Ord. 383, 11/12/2007, §6)

§24-407. 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 Borough Secretary or other designated collector on or before the thirtieth day following the end of each calendar quarter of each such tax year.

(Ord. 383, 11/12/2007, §7)

§24-408. 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 shall be required to comply with this Part and pay the pro rata portion of the tax due to the Borough Secretary or other designated collector on or before the thirtieth day following the end of each quarter.

(Ord. 383, 11/12/2007, §8)

§24-409. Individuals Engaged in More than One Occupation or Employed in More than One Political Subdivision.

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

A. First, the political subdivision in which a person maintains his or her principal office or is principally employed.

B. Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision.

C. Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

2. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

(Ord. 383, 11/12/2007, §9)

§24-410. Nonresidents Subject to Tax.

All employers and self-employed individuals residing or having their places of business outside of the Borough but who perform services of any type or kind or engage

in any occupation or profession within the Borough do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Part with the same force and effect as though they were residents of the Borough. Further, any individual engaged in an occupation within the Borough and an employee of a nonresidential employer may, for the purpose of this Part, be considered a self-employed person, and in the event his or her tax is not paid, the Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

(Ord. 383, 11/12/2007, §10)

§24-411. Administration of Tax.

1. The Borough Secretary, or other designated collector appointed by resolution of the Borough, shall collect this tax. It shall be the duty of the Borough Secretary or other designated collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer of self-employed person, together with the date the tax was received.

2. The Borough Secretary or other designated collector is hereby charged with the administration and enforcement of this Part 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 Part, including provisions for the examination of payroll records of any employer subject to this Part, the examination and correction of any return made in compliance with this Part and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the collector shall have the right to appeal consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998.

3. The Borough Secretary or other designated 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 Borough Secretary or other designated Collector the means, facilities and opportunity for such examination.

(Ord. 383, 11/12/2007, §11)

§24-412. Suits for Collection.

1. In the event that any tax under this Part remains due or unpaid 30 days after the due dates above set forth, the Borough Secretary or other designated Collector may sue for the recovery of any such tax due or unpaid under this Part, together with interest and penalty.

2. If for any reason the tax is not paid when due, interest at the rate of 6 percent on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5 percent 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 therefore shall, in addition, be responsible and liable for the costs of collection.

(Ord. 383, 11/12/2007, §12)

§24-413. Violations and Penalties.

Whoever makes any false or untrue statement on any return required by this Part, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this Part shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 383, 11/12/2007, §13; as amended by Ord. 387, 12/14/2009*)

§24-414. Interpretation.

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

2. If any part of this Part shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania, such decision shall not affect the validity of the remaining parts of this Part.

(*Ord. 383, 11/12/2007, §14*)

Part 5**Property Tax Relief****§24-501. Definitions.**

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

Act 77 - the Act of December 22, 1993, P.L. 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.

Board of Commissioners - the Board of Commissioners 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 Allegheny County who is a single person aged 65 or older during a calendar year in which Allegheny County real property taxes are due and assessed; or married persons if either spouse is 65 or older during a calendar year in which county 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, workers' 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 government agency or property tax or rent rebate in 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 5 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, P.L. 104 No. 3, as amended, codified at 72 P.S. §4751-1 *et seq.*

(*Ord. 347, 12/29/1994*)

§24-502. Limitation of Assessment of Eligible Taxpayers.

All eligible taxpayers in the Borough of Thornburg who are longtime owner/occupants shall be entitled to apply for and receive a discount of 15 percent on the gross or face amount of Borough of Thornburg real property taxes then due and owing during a tax year on an eligible taxpayer(s) primary personal residence if the eligible taxpayer meets the household income limits for qualification for any amount of property tax rebate under the Allegheny County Property Tax Relief Program.

(*Ord. 347, 12/29/1994; as amended by Ord. 374, 6/14/2004, §I*)

§24-503. Participation in Limitation of Tax Assessment Program.

Any person paying property taxes in the Borough of Thornburg may apply to the Department of Property Assessment for certification as a participant in the assessment limitation program authorized under this Part. In order to be eligible to participate in this program, the person must meet the following conditions:

A. The person must be a single person aged 65 years or older; or be married persons with either spouse being 65 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 qualify him or her to receive any amount of property tax rebate under the Senior Citizens Rebate and Assistance Act.

E. The person has qualified for certification as a participant in the assessment limitation program of Allegheny County.

(*Ord. 347, 12/29/1994*)

§24-504. Application and Certification.

1. An applicant taxpayer from the Borough of Thornburg, in making application to the Department of Property Assessment for certification as a participant in the assessment limitation program authorized by Allegheny County, shall be deemed to have made application for participation in the program established by the Borough of Thornburg under the provisions of this Part.

2. The Department of Property Assessment is authorized by the Borough of Thornburg to issue a certification of eligibility to taxpayers of the Borough of Thornburg and to mark the assessment records as qualified as an eligible property tax owner in the Borough of Thornburg upon notification of eligibility as a real estate owner of Allegheny County.

(Ord. 347, 12/29/1994)

§24-505. Additional Rules and Regulations.

The Borough shall adopt by reference all rules and regulations with respect to the administration of the limitation of the tax assessment program established under this Part adopted by the Department of Property Assessment of Allegheny County.

(Ord. 347, 12/29/1994)

Part 6**Additions and Revisions to Duplicates****§24-601. Notification of Issuance of Permits.**

1. The Borough Building Inspector shall advise the Borough Tax Collector, Borough Secretary and the Montour School District Business Manager of the issuance of all building permits and occupancy permits for new construction and improvements.

2. The Borough Secretary shall notify the Allegheny County Office of Property Assessment of the issuance of building and occupancy permits for new construction and improvements.

(Ord. 369, 7/14/2003, §I)

§24-602. Additions and Revisions to Duplicate, Reassessed Property Taxable.

The Borough and its appropriate officers are directed to take all steps necessary to add to and revise the duplicate in accordance with §1306 of the Borough Code, 53 P.S. §46306, and to coordinate with the Allegheny County Office of Property Assessment, to provide for all interimly assessed property to be added to or revised upon the Thornburg Borough real estate tax duplicate for that calendar year and to make such property taxable for Borough purposes at the reassessed valuation for that proportionate part of the calendar year of the Borough remaining after the property was newly constructed or improved.

(Ord. 369, 7/14/2003, §I)

