

## **Chapter 24**

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**Part 1****Earned Income and Net Profits****§24-101. Imposition of Tax.**

1. A tax for general revenue purposes of 1.4% is hereby imposed on the following:  
[*Ord. 820*]

A. Earned income earned on and after January 1, 1988, by residents of the Township of Ferguson.

B. Net profits earned on and after January 1, 1988, by residents of the Township of Ferguson. [*Ord. 344*]

2. A tax for general revenue purposes of 1% is hereby imposed on the following:  
[*Ord. 416*]

A. Earned income on and after January 1, 1990, by non-residents of the Township of Ferguson for work done or services performed or rendered in the Township of Ferguson. [*Ord. 416*]

B. Net profits earned on and after January 1, 1990, from the operation of business, professions or other activity except corporations conducted in the said Township by non-residents of the Township of Ferguson. [*Ord. 416*]

(*Ord. 12, 5/20/1964, as reenacted and amended by Ord. 77, 4/13/1976, §1; as amended by Ord. 157, 12/20/1977, §1, by Ord. 181, 12/15/1978, §1; by Ord. 205, 12/16/1980, §1; by Ord. 305, 12/20/1985, §1; by Ord. 344, 1/4/1988, §1; by Ord. 416, 12/5/1989, §1; by Ord. 783, 10/15/2001, §1; and by Ord. 820, 12/8/2003*)

**§24-102. Section 13 of Enabling Act Adopted by Reference; Options.**

Section 13 of the said Local Tax Enabling Act of 1965, P.L. 1257, is hereby adopted and incorporated by reference and made a part of this Part, to the same extent as if the full text of the said Section were set out verbatim in this Part, except that:

A. In the case of net profits, the Township elects to operate under the option set forth in subsection III- (ii) of the said §13, requiring an annual declaration of estimated net profits and quarterly payments thereof, rather than annual payments of the tax due on net profits for the preceding year as provided in Subsection III-A(i).

B. In the case of earned income not subject to withholding, the Township elects to operate under the option set forth in subsection III-B(2) requiring quarterly returns, with accompanying payment of the tax, rather than the annual return and payment of the tax for the preceding year as set forth in subsection III-B(1). Provided: The Income Tax Officer may provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payment of the estimated tax on net profits in cases where a taxpayer who has previously made a declaration of net profits anticipates additional net profits not previously declared

or finds that he has overestimated his anticipated net profits.

(*Ord. 12, 5/20/1964, as reenacted and amended by Ord. 77, 4/13/1976, §2*)

**§24-103. Income Tax Officer.**

The Board of Township Supervisors may from time to time appoint and designate a person to serve as Income Tax Officer, and the bond of the Income Tax Officer shall be filed with the Township Solicitor.

(*Ord. 12, 5/20/1964, as reenacted and amended by Ord. 77, 4/13/1976, §3*)

## Part 2

### Real Estate Transfer

#### §24-201. Definitions.

The following words and phrases when used in this Part shall have the meaning ascribed to them in this section except when the context 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 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 or 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 thirty years, or instruments which solely grant, vest or confirm public utility easements. "Document" shall also include a declaration or acquisition required to be presented for recording under §24-207 of this Part.

*Family Farm Corporation* - a corporation of which at least 75% of its assets are devoted to the business of agriculture, and at least 75% of each class of stock of the corporation is 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.

*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 decedents 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 subsection prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

*Real Estate* -

(1) Any lands, tenements or hereditaments within this Commonwealth, 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% or more of the ownership interest in which is held by 35 or fewer persons and which:

(1) Derives 60% 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% 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, and ground rents, or a commensurate part, also encumber or are changed 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 judgement 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, or 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 of assessed values to market values of the taxing district as established by the State Tax Equalization Board, or a commensurate part of the assessment where the assessment includes other real estate.

(3) In the case of an easement or other interest in real estate the value of which is not determinable under subsection (1) or (2), the actual monetary worth of such interest, or (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 person existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor or a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(*Ord. 324, 10/14/1986, §3*)

#### **§24-202. Imposition of Tax.**

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, or for or in respect of the vellum parchment or paper upon which such document is written or printed, a tax at the rate of 1.25% 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 with 30 days of becoming an acquired company.

(*Ord. 324, 10/14/1986, §1; as amended by Ord. 783, 10/15/2001, §2*)

#### **§24-203. 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, 10/14/1986, §4*)

**§24-204. Excluded Transactions.**

The tax imposed by §24-201 shall not be imposed upon:

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 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 said reconveyance is made within 1 year from the date of condemnation.

B. A document which the Commonwealth 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 sheriff 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 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 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 or 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 sale 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:

(1) For no or nominal actual consideration between principal and agent or straw party.

(2) 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 clause.

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 or the corporation or an interest in or ownership of the real estate 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 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:

(1) 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.

(2) 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.

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% of each class of the stock thereof.

T. A transfer between member of the same family of an ownership interest in a real estate company or family farm corporation.

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

V. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereon. 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. 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, 10/14/1986, 5)

**§24-205. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.**

Except as otherwise provided, 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 Section, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(Ord. 324, 10/14/1986, §6)

**§24-206. Acquired Company.**

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however affected, if the change:

A. Does not affect the continuity of the company.

B. 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 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 disposition, it ceases to be a family farm corporation or when, 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. 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.

(Ord. 324, 10/14/1986, §7)

**§24-207. Credits Against Tax.**

1. Where there is a transfer of residential property by a licensed real estate broker, which property was transferred to him within the preceding year as consideration for the purchase of another 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 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 demised by the grantor, a credit for the amount of tax paid at the time of the demise 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 of tax due, no refund or carryover credit shall be allowed.

(Ord. 324, 10/14/1986, §8)

**§24-208. 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, 10/14/1986, §9)

**§24-209. Calculation for Land Partly Outside Township Limits.**

In case of any lands, tenements, hereditaments or interest therein, partly within and partly without the Township boundaries of Ferguson Township, such tax shall be computed only on the consideration paid for that portion lying within the boundaries of said Township of Ferguson.

(Ord. 324, 10/14/1986)

**§24-210. Collection of Tax and Duties of Recorder of Deeds.**

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. As further provided under 72 P.S. §8102-D, "Administration," the Pennsylvania Department of Revenue is hereby designated to collect the correct realty transfer tax

for unpaid or underpaid amounts based on a re-determination of the realty transfer tax due to the Commonwealth of Pennsylvania. Fees imposed by the Commonwealth of Pennsylvania associated with the collection of unpaid or underpaid realty transfer taxes shall be an additional cost which shall be borne by the transferring parties.

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 Township of Ferguson 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 2% 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 re-record the deed or record the additional realty transfer tax form only when both the State and local amounts, collection fees and a re-recording fee has been tendered.

(*Ord. 324*, 10/14/1986; as amended by *Ord. 502*, 9/3/1991, §1; and by *Ord. 871*, 11/20/2006, §1)

#### **§24-211. Interest on Unpaid Tax; Liens.**

All taxes imposed by this Part which are not paid when due shall bear interest thereon at the rate established by the Pennsylvania Department of Revenue until paid. Said tax, when due and unpaid, shall become a lien on the lands, tenements, hereditaments or any interest therein which are described in a deed, transfer or conveyance upon which this tax is due, and shall be collected as other taxes are collected.

(*Ord. 324*, 10/14/1986; as amended by *Ord. 871*, 11/20/2006, §2)

#### **§24-212. Penalty for Violation.**

1. Any person, firm or corporation who or which has violated or permitted the violation of the provisions of this Part shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$600 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

2. Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than the Township the right to commence any action for enforcement pursuant to this Section.

(*Ord. 324*, 10/14/1986; as amended by *Ord. 820*, 12/8/2003; and by *Ord. 871*, 11/20/2006, §3)

## Part 3

### Local Services Tax

#### §24-301. Short Title.

This Part shall be known and may be cited as the “Local Services Tax of Ferguson Township.”

(Ord. 893, 11/19/2007, §1)

#### §24-302. Authority.

This Part is enacted under the authority of Act 511 of 1965, as amended, known as the “Local Tax Enabling Act.”

(Ord. 893, 11/19/2007, §1)

#### §24-303. Definitions.

For the purpose of this Part the following terms, words, phrases and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and masculine shall include the feminine and neuter. The word “shall” is always mandatory and not merely directory.

*Board of Supervisors* - the Board of Supervisors of the Township of Ferguson.

*Calendar year* - the 12-month period beginning January 1 and ending December 31.

*Collector* - a person, public employee, or private agency designated by the municipal governing body to collect and administer the local services tax herein levied.

*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. I, 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 Reform Code of 1971. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

*Employer* - a person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation, including self-employed individuals.

*Exemption certificate* - an exemption certificate substantially in the form of the uniform certificate prescribed by the Pennsylvania Department of Community and Economic Development affirming that the person reasonably expects to receive earned income and/or net profits from all sources within the municipality of less than \$12,000 in the calendar year for which the exemption certificate is filed, which exemption certificate has attached to it a copy of all of the employee’s last pay stubs

or W-2 forms from employment within the municipality for the year prior to the calendar year for which the employee is requesting to be exempted from the tax. In addition to the income exemptions, provision has been made for certain military exemptions.

*Local services* - emergency services, road construction and/or maintenance, reduction of property taxes, and property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S., Subch. F.

*Municipality* - the Township of Ferguson.

*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 Reform Code of 1971," and regulations in 61 Pa.Code, Pt. I, Subpt. B, Art. V (relating to personal income tax). The term does not include income which is not paid for services provided and which 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. (Def. amended Dec. 9, 2002, P.L.1364, No.166)

*Nonresident* - a person, partnership, association or other entity domiciled outside the municipality.

*Occupation* - any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or otherwise, for which any earned income and/or net profits are charged and received from sources within the municipality.

*Political subdivision* - any county, city, borough, incorporated town, township, school district, vocational school district and county institutional district.

*Preceding year* - the calendar year before the current year.

*Tax* - the tax imposed by §24-304 of this Part.

*Taxpayer* - any natural person liable for the tax levied by §24-304 of this Part.

(Ord. 893, 11/19/2007, §1)

#### **§24-304. Levy.**

The municipality hereby levies and imposes on every individual engaging in an occupation within the jurisdictional limits of the municipality a tax in the amount of \$52 per annum, beginning the first day of January 2008 and continuing on a calendar basis annually thereafter, until modified or repealed by a subsequent ordinance. This tax is in addition to all other taxes of any kind or nature heretofore levied by the municipality.

(Ord. 893, 11/19/2007, §1)

**§24-305. Exemptions.**

The tax levied by §24-304 shall not be imposed upon the following persons:

A. Any person who 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% permanent 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 calendar year. For 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.

C. Any person whose total earned income and/or net profits from all sources within the municipality is less than \$12,000 for the calendar year in which the local services tax is levied.

(*Ord. 893, 11/19/2007, §1*)

**§24-306. Collection Through Employers.**

1. Every employer shall, within 15 days after first becoming an employer, register with the collector the employer's name, address and such other information as the collector may require. Failure to register in a timely manner does not relieve the employer of the requirements of this Part.

2. As to each taxpayer employed for any length of time during any payroll period of an employer during the calendar year, each employer shall deduct a pro rata share of the tax from the earned income payable to the taxpayer with respect to such payroll period. The pro rata share of the tax assessed on a Taxpayer for a payroll period shall be determined by dividing the rate of the tax (\$52) 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 of the tax, an employer shall round down the amount of tax deducted for each payroll period to the nearest  $\frac{1}{100}$  of a dollar.

3. Each employer shall file a return on a form prescribed by the collector, and pay the collector the full amount of all such taxes deducted during a calendar quarter within 30 days after the end of the calendar quarter. A tax return must be filed for each calendar quarter, regardless of whether withholdings were completed or any tax liability exists.

4. Any employer who discontinues business or ceases operation during the calendar year, shall within 15 days after discontinuing business or ceasing operation, file the return hereinabove required and pay the tax to the collector.

5. The failure of any employer to deduct the tax shall not relieve the employee from the duty to file a return and pay the tax. Any employer who fails to deduct the tax as required by this subsection, or who fails to pay such tax to the collector, shall be liable for such tax in full, as though the tax had originally been levied against such

employer. No employer shall be liable for failure to deduct the tax if the failure to deduct the tax 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.

6. *Priority of Withholding.* The tax shall be withheld at 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, i.e., concurrent employment, or an occupation which requires the person working in more than one political subdivision during the payroll period, the priority to withhold the local services tax shall be in the following order:

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

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

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

7. The employer shall not deduct the tax but shall maintain adequate records concerning the employees in the cases described in paragraphs .A and .B of this subsection.

A. It is the intent of this subsection that no person shall be subject to the payment of the local services tax in more than one municipality during each payroll period. No taxpayer shall be required to pay more than \$52 in total during the calendar year. In the case of concurrent employment, an employer shall refrain from withholding the local services tax, if the employee provides:

(1) 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 local services tax withheld.

(2) 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 2 weeks of its occurrence.

B. In the case of an employee claiming the exemption set forth at §24-305.C, if (1) the employee has provided an exemption certificate to the employer, (2) the collector has not otherwise instructed the employer, (3) the employer has not received notification from the person who claimed the exemption or from the collector that the person has received earned income and/or net profits from all sources within the municipality 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, and (4) the employer has not paid to the person earned income within the municipality an amount equal to or in excess of \$12,000 in that calendar year.

C. If a person has claimed exemption from the tax under §24-305.C for a given calendar year but either (1) the employer has received notification from the person who claimed the exemption or from the collector that the person has received earned income and/or net profits from all sources within the municipality 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 (2) the employer has paid to the person earned income within the municipality an amount equal to or in excess of \$12,000 in that calendar year, then the employer shall withhold the tax for the remainder of that calendar year and the employer shall withhold from the person, for the first payroll period after receipt of the notification described in paragraph .A(1) above or for the first payroll period after payments described in paragraph .A(2) above have been made, a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person, 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 paragraph is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due and the collector may pursue collection under this Part.

D. Each employer shall ensure that exemption certificate forms are readily available to employees at all times and shall furnish each new employee with an exemption certificate form at the time of hiring and prior to the first pay period of each calendar year.

E. A person seeking exemption from the tax under §24-305.C must annually file an exemption certificate with the employer and the collector.

F. Each employer within the municipality and each employer located outside the municipality who engages in business within the municipality is hereby charged with the duty of collecting the tax from each of the employees engaged by the employer and performing work for the employer within the municipality.

(Ord. 893, 11/19/2007, §1)

#### **§24-307. Direct Payment by Taxpayers.**

Every taxpayer who is self-employed and has not filed an exemption certification with the collector, or whose tax for any other reason is not collected under §24-306 of this Part, shall file a return on a form prescribed by the collector and shall pay a pro rata share of the tax directly to the collector within 30 days after the end of each calendar quarter. The pro rata share of the tax assessed on a taxpayer for a calendar quarter shall be determined by dividing the rate of the tax levied (\$52) for the calendar year by four.

(Ord. 893, 11/19/2007, §1)

#### **§24-308. Nonresident Taxpayers.**

Both resident and nonresident taxpayers shall, by virtue of engaging in an occupation within the municipality, be subject to the tax and the provisions of this Part.

(Ord. 893, 11/19/2007, §1)

#### **§24-309. Administration and Enforcement.**

The collector, on behalf of the municipality, shall collect and receive the taxes, interest, fines and penalties imposed by this Part, and shall maintain records showing interest, fines and penalties imposed by this Part, and shall maintain records showing

the amounts received and the dates such amounts were received. The collector shall prescribe and issue all forms necessary for the administration of the tax and shall enforce regulations adopted by the governing body relating to any matter pertaining to the administration of this Part, including, but not limited to, requirements for collection through employers, requirements for evidence and records, and provisions for the examination and correction of returns. The collector and any designated agents may examine the records of any employer or supposed employer or of any taxpayer or supposed taxpayer in order to ascertain the tax due or verify the accuracy of any return. Every employer or supposed employer and every taxpayer or supposed taxpayer shall give the collector and any designated agent all means, facilities and opportunity for the examinations hereby authorized. Any such examination shall be conducted within this municipality or at the office where the tax return is processed.

(*Ord. 893, 11/19/2007, §1*)

#### **§24-310. Suits for Collection of Tax.**

The municipality or its collector of the tax may collect unpaid taxes from the taxpayer or employer owing such taxes by suit as provided for by Act 511 of 1965, as amended, known as the "Local Enabling Tax Act."

(*Ord. 893, 11/19/2007, §1*)

#### **§24-311. Interest and Penalties for Unpaid Tax or Late Payment.**

1. The tax levied pursuant to this Part shall be due and payable on the date on which the taxpayer is required to file a return, as set forth hereinbefore, and, if the same is not paid on that date, a penalty of 10% shall be added there, plus interest at the rate of .5% per month of the unpaid tax for each month or fraction thereof during which the tax remains unpaid.

2. The failure of a taxpayer to receive a tax return does not relieve their filing or payment responsibility.

3. The penalties imposed under this Section shall be in addition to any other penalty imposed by any other Section in this Part.

(*Ord. 893, 11/19/2007, §1*)

#### **§24-312. Fines and Penalties for Violation of this Part.**

1. Any taxpayer or employer who fails, neglects, or refuses to make a return required, any employer who fails, neglects or refuses to register or to pay the tax deducted from employees, or fails, neglects, or refuses to deduct or withhold the tax from employees, taxpayer or employer who refuses to permit the collector to examine the books, records, and papers, and taxpayer or employer who knowingly makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of tax due in order to avoid the payment of the whole or any part of the tax imposed shall, upon conviction thereof before the district magistrate be sentenced to pay a fine of not more than \$500 for each offense, and costs, and, in default of said fines and costs be imprisoned for a period not exceeding 30 days.

2. The failure of taxpayer or employer to receive or procure forms required for filing the required return does not excuse the taxpayer or employer from the filing

requirement.

(*Ord. 893, 11/19/2007, §1*)

**§24-313. Refunds.**

1. Any person who has overpaid the tax may obtain a refund by making a written application for a refund to the collector no later than 1 calendar year after payment of the tax or 3 years after the due date for payment of the tax, whichever is later, and satisfactorily proves to the collector that the taxpayer is entitled to the refund. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax to the collector for the last quarter of the calendar year, whichever is later, shall not be subject to interest imposed under 53 Pa.C.S. §8426. A refund shall be provided only for an amount overpaid in a calendar year that exceeds \$1.

Refund requests must be submitted on the form approved by the collector. It should be noted that incomplete refund requests will be deferred until the missing or incomplete information is provided. Refunds in the deferred status are not subject to the payment of interest requirement.

(*Ord. 893, 11/19/2007, §1*)

**§24-314. Receipt.**

The collector shall provide a taxpayer a receipt of payment of the tax upon request by the taxpayer. A stamped self-addressed envelope shall be furnished by the taxpayer if a receipt via return mail is desired.

(*Ord. 893, 11/19/2007, §1*)

**§24-315. Applicability.**

The tax shall not apply to any subject of tax or person not within the taxing power of the municipality under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

(*Ord. 893, 11/19/2007, §1*)

**§24-316. Duration.**

This Part shall continue in force from 1 calendar year to another without annual reenactment.

(*Ord. 893, 11/19/2007, §1*)

