

Chapter 24

Taxation; Special

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Part 1**Earned Income and Net Profits****§24-101. Short Title; Effective Date.**

This Part shall be known as the “Earned Income Tax Ordinance” and the provisions hereof shall become effective on the first day of January, 1975, and shall remain in effect on a calendar year basis thereafter without annual reenactment, unless the rate of tax is subsequently changed.

(*Ord. 107, 2/5/1975, §1; as amended by Ord. 120, 12/27/1979, §XXIV-1*)

§24-102. Definitions.

The following words and phrases, when used in this Part, including the various portions of this Section thereof, 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, joint venture, or any other unincorporated group of two or more persons.

Business—an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, fiduciary, association, or any other entity, alone or in association with some other person or persons.

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

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, Part. I, Subpart. B, Article 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. [*Ord. 178*]

Employer—an individual, fiduciary, association, corporation, governmental body or unit or any other entity employing one or more persons on a salary, wage, commission or other compensation basis.

Income Tax Administrator—the person empowered by the Council of Port Matilda Borough to administer the provisions of 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 Reform Code of 1971,” and regulations in 61 Pa.Code, Part I, Subpart B, Article 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.

[Ord. 178]

Nonresident—an individual, co-partnership, association or other entity domiciled outside of the Borough of Port Matilda.

Person—an individual, fiduciary, association, corporation or other entity. Whenever used in any section prescribing and imposing a penalty, the term “person” as applied to association shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

Resident—an individual, fiduciary, association, or other entity domiciled in the Borough of Port Matilda.

Salaries, wages, commissions, and other compensation—salaries, wages, commissions, bonuses, incentive payments, fees and tips that may be paid to or received by an individual for services rendered, or that may accrue to such individual in accordance with an established accounting procedure, whether directly or through an agent and whether in cash or in property; not including periodic payments for sick or disability benefits, retirement pay, or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, or public assistance or unemployment compensation payments made by a governmental agency.

Taxable period—the period beginning January 1 and ending December 31 of any calendar year.

Taxpayer—a person required hereunder to file a return of earnings or net profits, or to pay a tax thereon. The singular shall include the plural and the masculine shall include the feminine and the neuter.

(Ord. 107, 2/5/1975, §2; as amended by Ord. 120, 12/27/1979, §XXIV-2; as amended by Ord. 178, 9/15/2009)

§24-103. Imposing of Tax.

1. A tax for general revenue purposes of ½ of 1 percent is hereby imposed on the following:

A. Salaries, wages, commissions and other compensation earned or received on or subsequent to January 1, 1975, by residents.

B. Salaries, wages, commissions, and other compensation earned or received by nonresidents on or subsequent to January 1, 1975, for work done or service rendered in the Borough of Port Matilda.

C. On the net profits earned by residents of the Borough of Port Matilda during the taxable period from businesses, professions and other activities engaged in or conducted by residents.

D. Net profits earned by nonresidents of the Borough of Port Matilda during

the taxable period from businesses, professions and other activities engaged in or conducted in the Borough of Port Matilda by such nonresidents.

2. The taxes levied under paragraphs .A and .B of this Section shall relate to and be imposed upon revenue or compensation paid by employer or principal for or on his behalf to any person who is employed by or under services to him. The taxes levied under paragraphs .C and .D of this Section shall relate to and be imposed upon the net profits of any business, profession, or enterprise carried on by any person or owner or proprietor, either individually or in association with some other person or persons. Said tax shall first be levied, collected and paid with respect to the salaries, wages and commissions or other compensation earned from and after January 1, 1975, and with respect to the net profits of businesses, professions and other activities earned during that part of the calendar year of 1975, beginning from and after January 1, 1975, provided; however, that where the fiscal year of a business, profession or other activity differs from the calendar year, the tax shall be applicable only to that part of the net profits for the fiscal year as shall be earned from and after January 1, 1975.

(*Ord. 107, 2/5/1975, §3*)

§24-104. Declaration and Payment of Tax.

1. Every taxpayer who during the taxable period can reasonably be expected to earn net profits or earnings not subject to the provisions of §24-106 relating to the collection at source, shall make and file with the Income Tax Administrator, on a form prescribed by the Income Tax Administrator, a declaration setting forth the amount of net profits anticipated by him for such taxable period and subject to tax, the amount of estimated tax imposed thereon by this Part, and such other relevant information as the Income Tax Administrator may require.

2. The declaration of estimated tax shall be filed and the tax shall be paid at the following times:

A. Such declaration for 1975, shall be filed by June 15, 1975, and shall be accompanied by payment of at least one-half of the estimated tax due for the remainder of said calendar year.

B. At least one-fourth of the annual estimated tax shall be payable on or before September 15, 1975, and the remaining one-fourth thereof shall be payable on or before January 15, 1976. Thereafter at least one-fourth of the annual estimated tax shall be payable on or before April 15 and at least a similar amount shall be paid on or before June 15, September 15, and January 15 of each year, provided; however, that such estimate may be amended at the time of making any quarterly payment and provided further that on or before April 15 of the year following that for which such declaration is filed, a final return shall be filed and any balance which may be due the Borough of Port Matilda shall be paid therewith. Should it then appear that such taxpayer has paid more than the amount of tax to which the Borough would be entitled under the provisions of this Part, a refund of the amount overpaid shall be made and provided further, if the tax payer's declaration is filed on a fiscal year basis, he shall file his return on or before the 75 day after the close of the fiscal year.

3. In the event of the death of the taxpayer during the taxable period, his personal representative shall file his final return within 60 days after the taxpayer's death and

pay the tax due or demand refund in the case of overpayment.

(*Ord. 107, 2/5/1975, §4; as amended by Ord. 120, 12/27/1979, §XXIV-4*)

§24-105. Filing of Returns.

Every person whose earnings or net profits are subject to the tax imposed by this Part shall, on or before April 15 of each year beginning in the year 1976, make and file a return with the Income Tax Administrator. Such return shall be filed on a form prescribed by the Income Tax Administrator, approved by the Solicitor, furnished at the expense of the Borough and obtained from the Borough Income Tax Administrator; provided, however, where a return is made for fiscal year, or for any other period different from a calendar year, such return shall be made within 75 days after the close of such fiscal year or other period. The taxpayer making said return shall, at the time of filing thereof, pay to the Income Tax Administrator the amount of taxes shown as due thereon; and, provided further, that where any portion of the tax due shall have been deducted at the source and shall have been paid to the Income Tax Administrator by the person making such deduction pursuant to §24-106 of this Part, credit for the amount so paid shall be deducted from the amount due. Said taxpayer shall likewise be entitled to such credits or deductions as are allowed pursuant to §24-114 of the Act of 1965, P.L. 1257 No. 511, 53 P.S. §6913 as amended, for payment of any concurrent period of a like tax to any other political subdivision of the Commonwealth by any resident of any other political subdivision.

(*Ord. 107, 2/5/1975, §5; as amended by Ord. 120, 12/27/1979, §XXIV-5*)

§24-106. Collection at Source.

1. Every employer within the Borough who employs one or more residents on a salary, wage, commission or other compensation basis, or nonresident whose salary, wage, commission or other compensation is subject to this Part, shall deduct at the time of the payment thereof, the tax imposed by this Part on the earnings due to the employee or employees and, within 30 days after June 30, 1975, and within 30 days after each quarter of a year thereafter, shall make and file a return with the Income Tax Administrator on a form prescribed by him, setting forth the taxes so deducted and such other relevant information as said Income Tax Administrator may require, and shall pay to the Borough the amount of taxes so deducted.

2. On or before February 15 of the following year, every such employer shall make and file with the Income Tax Administrator on a form prescribed by the Income Tax Administrator:

A. A return showing the total amount of the earnings of his employee or employees during the portion of the preceding calendar year ending December 31 and embraced within the taxable period, the total amount of tax deducted and the total amount of tax paid to the Borough.

B. A return for each employee showing the total amount of the employee's earnings during the portion of the preceding calendar year ending December 31 and embraced within the taxable period, the amount of tax deducted therefrom, the employee's Social Security number, name and address, and such other relevant information as the Income Tax Administrator may require. Such employer on or before February 15 of each of said years shall furnish a copy of such return to the

employee named in the return.

3. The said returns shall include the earnings taxable under any other ordinance of the Borough for the same calendar year so that one return shall be filed by an employer for any 1 calendar year.

4. Every employer who discontinues business prior to the close of the taxable year shall, within 30 days after the discontinuance of business, file the returns hereinabove required and pay the tax due. Where discontinuance of business is due to the death of the employer, his personal representative, or in the absence of a personal representative, his heirs, as designated by the laws of the Commonwealth of Pennsylvania, shall within 60 days after the death of the employer file his return and pay the tax due or demand refund in the case of overpayment.

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

6. If an employer makes a deduction of taxes required by this Section, the amount deducted shall constitute in the hands of such employer a trust fund held for the account of the Borough as beneficial owner thereof and the employee from whose earnings such tax was deducted shall be deemed to have paid such tax.

7. The withholding of earnings and the payment and return thereof by the employer under the provisions of this Section shall not be required in respect to earnings of domestic servants, farm labor and casual labor not in the course of the employer's business. This paragraph shall not be constructed to exempt such employees from the requirements of filing a declaration and a return of such earnings and the payments of tax thereon under the provisions of §24-105.

(*Ord. 107, 2/5/1975, §6; as amended by Ord. 120, 12/27/1979, §XXIV-6*)

§24-107. Powers and Duties of the Income Tax Administrator.

1. It shall be the duty of the Income Tax Administrator to collect and receive the taxes, fines and penalties imposed by this Part. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and, if paid by such person in respect of another person, the name of such other person, and the date of such receipt.

2. The Income Tax Administrator is hereby charged with the administration and endorsement of the provisions of this Part and is hereby empowered, subject to approval by the Borough Council of Port Matilda, 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 and returns and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this Part.

3. The Income Tax Administrator, and agents designated in writing by him, are hereby authorized to examine the books, papers and records of any person in order to verify the accuracy of any declaration or return, or, if no declaration or return was filed, to ascertain the tax due. Every person is hereby directed and required to give to the Income Tax Administrator or to any agent so designated by him the means, facilities

and opportunity for such examinations and investigations as are hereby authorized.

4. Any information gained by the Income Tax Administrator, his agents, or by any other official, agent or employee of the Borough of Port Matilda as a result of any declarations, returns, investigations, hearings, or verifications required or authorized by this Part shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this Part or as otherwise provided by law.

5. Any person aggrieved by any action of the Income Tax Administrator shall have the right of appeal as provided by law.

(Ord. 107, 2/5/1975, §7)

§24-108. Suit for Collection of Tax.

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

2. Any suit brought to recover the tax imposed by this Part shall be begun within 6 years after such tax is due or within 6 years after a declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

A. Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under the provisions of this Part.

B. Where a false or fraudulent declaration or return was filed with the intent to evade tax.

C. Where any person had deducted taxes under the provisions of this Part and has failed to pay the amounts so deducted to the Borough of Port Matilda.

(Ord. 107, 2/5/1975, §8)

§24-109. Interest and Penalties.

If for any reason the tax is not paid when due, interest at the rate of 6 percent per annum of the amount of said tax, and an additional penalty of one-half 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. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

(Ord. 107, 2/5/1975, §9)

§24-110. Payment and Refunds.

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

(Ord. 107, 2/5/1975, §10)

§24-111. Applicability.

1. The tax imposed by this Part shall not apply:

A. To any person as to whom it is beyond the legal power of the Borough of Port Matilda to impose the tax herein provided for under the Constitution and laws of the Commonwealth of Pennsylvania.

B. To any institution or organization operated for public religious, educational or charitable purposes, to any institution or organization not organized or operated for private profit or to a trust or a foundation established for any of the said purposes.

C. The net profits of any corporation which is subject to the Pennsylvania Corporate Net Income Tax or exempt from the Pennsylvania Corporate Net Income Tax and any foreign corporation which is subject to the Pennsylvania Franchise Tax or exempt from the Pennsylvania Franchise Tax.

2. This Section shall not be construed to exempt any person who is an employer from the duty of collecting the tax at source from his employees and paying the amount collected to the Borough under the provisions of §24-106 of this Part.

(*Ord. 107, 2/5/1975, §11*)

§24-112. Penalty for Violation.

1. Any person who fails, neglects, or refuses to make any declaration or return required by this Part, any employer who fails, neglects, or refuses to register or to pay the tax deducted from his employees, or fails, neglects, or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false, or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part, shall, upon conviction therefor before any magisterial district judge, or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and in default of payment, to be imprisoned for a period not exceeding 30 days. [*Ord. 178*]

2. Any person who divulges any information which is confidential under the provisions of this Part, shall, upon conviction therefor, before any magisterial district judge, or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and in default of payment, to be imprisoned for a period not exceeding 30 days. [*Ord. 178*]

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

4. The failure of any person to receive or procure forms required for making the declarations or returns required by this Part shall not excuse him from making such declaration or return.

(*Ord. 107, 2/5/1975, §12; as amended by Ord. 120, 12/27/1979, §XXIV-12; as amended by Ord. 178, 9/15/2009*)

Part 2**Per Capita****§24-201. Definitions.**

1. Unless otherwise expressly stated, the following terms shall have for the purpose of this Part the meaning therein indicated:

Person—any natural person.

Resident—any person domiciled in the Borough of Port Matilda

Taxpayer—any person required hereunder to pay a per capita tax.

Collector—refers to the person elected or designated by the Borough to collect or to receive the taxes imposed by this Part.

2. The singular shall include the feminine and the neuter.

(*Ord. 84, 2/5/1968, §1*)

§24-202. Levy of Tax.

In addition to the other taxes provided by ordinance of the Borough of Port Matilda, there is hereby imposed for general revenue purposes, an annual tax of \$5 upon every resident of the Borough who shall have attained the age of 18 years on or before the first day of July of the tax year.

(*Ord. 84, 2/5/1968, §2; as amended by Ord. 120, 12/27/1979, §XXIV-52*)

§24-203. Notice.

On or before the first day of March of each calendar year, the collector shall send to every resident of the Borough over the age of 18 years, a notice that a per capita tax is due by such resident for the calendar year. Such notice shall be on a form prescribed by the Borough. Provided: the failure or omission of the collector to send or of any taxpayer to receive such notice shall not relieve such person from the payment of such tax. Provided; further, any person who shall become a resident of the Borough after the first day of September of any calendar year shall not be liable for the per capita tax for that year, and any person who shall cease to be a resident at any time after the first day of September of any calendar year shall be liable for the full amount of the per capita tax for such year.

(*Ord. 84, 2/5/1968, §3; as amended by Ord. 120, 12/27/1979, §XXIV-53; and by Ord. 178, 9/15/2009*)

§24-204. Discounts and Penalties.

All taxpayers subject to the payment of the tax under this Part shall be entitled to a discount of 2 percent on the amount of such tax upon making payment of the whole amount thereof within 2 months after the date of the tax notice. All taxpayers who shall fail to make payment of any such taxes imposed against them for 4 months after the date of the notice shall be charged a penalty of 5 percent, which penalty shall be added to the taxes by the collector and collected by him. The collector shall furnish a receipt to every person paying such tax.

(*Ord. 84, 2/5/1968, §4*)

§24-205. Recovery of Unpaid Taxes.

All taxes levied under this Part, together with all penalties, shall be recoverable by the collector, in the manner authorized by law in the case of per capita taxes within the Commonwealth of Pennsylvania.

(*Ord. 84, 2/5/1968, §5; as amended by Ord. 120, 12/27/1979, §XXIV-55*)

§24-206. Penalty for Violation.

Any person who shall violate or fail to carry out any provision of this Part, or who shall fail, neglect or refuse to pay any taxes or penalties hereby imposed, or who shall attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax hereby imposed, 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. 84, 2/5/1968, §6; as amended by Ord. 120, 12/27/1979, §XXIV-56; and by Ord. 178, 9/15/2009*)

Part 3**Realty Transfer Tax****§24-301. Imposition of Interest and Penalties.**

All unpaid realty transfer taxes shall bear interest and penalties as provided for under §1102-D of the Tax Reform Code of 1971, 72 P.S. § 8102-D.

(*Ord. 171, 10/16/2007, §1*)

§24-302. Administration.

The tax imposed previously by the Borough of Port Matilda identified as the realty transfer tax 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 tax is not paid by the last day prescribed for timely payment, Port Matilda Borough, 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.

(*Ord. 171, 10/16/2007, §2*)

§24-303. Interest.

Any tax imposed under §24-301 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 Lien Act.” The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in §806 of the Act of April 9, 1929, P.L. 343 No.176, 72 P.S. §806 as amended, known as the “Fiscal Code” or the maximum interest rate permitted under the Municipal Claims and Tax Lien Act for tax claims.

(*Ord. 171, 10/16/2007, §3*)

§24-304. Preservation of Current Tax Ordinance.

As of the effective date of this Part all prior ordinances regarding realty transfer tax are hereby re-enacted and affirmed.

(*Ord. 171, 10/16/2007, §4*)

§24-305. Purpose.

The purpose of the within ordinance is to assess penalties and authorize collection of delinquent tax by the Department of Revenue, Commonwealth of Pennsylvania, as now provided by law.

(*Ord. 171, 10/16/2007, §5*)

