

## **Chapter 24**

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**Part 1****Earned Income Tax****§24-101. Definitions.**

*Association* - a partnership, limited partnership, or any other unincorporated group of two or more persons.

*Business* - an enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association or any other entity.

*Compensation* - as determined under §303 of the Act of the 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, Art. 5 (relating to personal income tax.) Employee business expenses are allowable deductions as determined under Article 3 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. 2005-08]

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

*Current year* - the current year for which the tax is levied.

*Domicile* - the place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual resident is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses, or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

*Income tax officer or officer* - person, public employee or private agency designated by governing body to collect and administer the tax on compensation and net profits. [Ord. 2005-08]

*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.

*Net profits* - the net income from the operation of a business, profession, or other activity, except corporations, 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 the regulations in 61 Pa. Code, Part I, Subpt. B Art. 5. 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:

- A. Any interest earnings generated from any monetary accounts or investment instruments of the farming business.

- B. Any gain on the sale of farm machinery.
- C. Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes.
- D. Any gain on the sale of other capital assets of the farm.

[Ord. 2005-08]

*Non-resident* - a person, partnership, association or other entity domiciled outside the taxing district.

*Person or individual* - a natural person.

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

*Resident* - a person, partnership, association other entity domiciled in the taxing district.

*Succeeding year* - the calendar year following the current year.

*Taxpayer* - a person, partnership, association, or any other entity, required hereunder to file a return of compensation or net profits, or to pay a tax thereon. [Ord. 2005-08]

(Ord. 91-1, 9/9/1991, §11.31; as amended by Ord. 2005-08, 10/24/2005)

#### **§24-102. Rate of Tax.**

1. A tax of ½ of 1% for general revenue purposes is hereby imposed on salaries, wages, commissions, net profits and other compensation earned by residents of the Township of Dover.

2. The tax levied under this ordinance shall be applicable to compensation received and to net profits earned in the period beginning January 1 of the current year, and ending December 31, of the current year or for taxpayer fiscal years beginning in the current year. The tax shall continue in force on a calendar year or taxpayer fiscal year basis without annual enactment. [Ord. 2005-08]

(Ord. 91-1, 9/9/1991, §11.32; as amended by Ord. 2005-08, 10/24/2005)

#### **§24-103. Declaration and Payment of Tax.**

1. *Net Profits.*

A. Every taxpayer making net profits shall pay to the officer an annual payment of tax due on or before April 15, of the succeeding year for the period beginning January 1, and ending December 21, of the current year.

B. Every taxpayer who discontinues business prior to December 31, of the current year, shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

2. *Compensation.*

A. *Annual Compensation Tax Return.* Every taxpayer shall, on or before April 15, of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of compensation received during the period beginning January 1, of the current year, and ending December 31, of the current year, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the

collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment. [*Ord. 2005-08*]

B. *Compensation Not Subject to Withholding.* Every taxpayer who is employed for a salary, wage, commission or other compensation and who received any compensation not subject to the provisions relating to collection at source, shall make and file with the officer on a form prescribed or approved by the officer, an annual return setting from the aggregate amount of compensation not subject to withholding from him during the period beginning January 1, and ending December 31, of the current year, and such other information as the officer may require, and pay to the officer the amount of tax shown as due thereon on or before April 15, of the succeeding year. [*Ord. 2005-08*]

(*Ord. 91-1, 9/9/1991, §11.33; as amended by Ord. 2005-08, 10/24/2005*)

#### **§24-104. Collection at Source.**

1. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the taxing jurisdiction imposing a tax on compensation or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation who has not previously registered shall, within 15 days after becoming an employer, register with the officer his name and address and such other information as the officer may require. [*Ord. 2005-08*]

2. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the taxing jurisdiction imposing a tax on compensation or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof, the tax imposed by ordinance or resolution on the compensation due to his employee or employees, and shall, on or before April 30, of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, file a return and pay to the officer the amount of taxes deducted during the preceding three-month periods ending March 1, of the current year, June 30 of the current year, September 30, of the current year, and December 31, of the current year, respectively. Such return unless otherwise agreed upon between the officer and employer shall show the name and Social Security number of each such employee, the compensation of such employee during such preceding 3-month period, the tax deducted therefrom, the political subdivision imposing the tax upon such employee, the total compensation of all such employees during such preceding 3-month period, and the total tax deducted therefrom and paid with the return. [*Ord. 2005-08*]

3. Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the officer on or before the last day of the month succeeding the month for which the tax was withheld.

4. On or before February 28, of the succeeding year, every employer shall file with the officer:

A. An annual return showing the total amount of compensation paid, the total amount of tax deducted, and the total amount of tax paid to the officer for the period beginning January 1, of the current year, and ending December 31, of the current year. [*Ord. 2005-08*]

B. A return withholding statement for each employee employed during all or any part of the period beginning January 1, of the current year, and ending December 31, of the current year, setting forth the employee's name, address and Social Security number, the amount of compensation paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, the amount of tax paid to the officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed. [*Ord. 2005-08*]

5. Every employer who discontinues business prior to December 31, of the current year, shall within thirty days after the discontinuance of business, file the returns and withholding statement hereinabove required and pay the tax due.

6. Except as otherwise provided in §24-110, every employer who willfully or negligently fails or omits to make the deductions required by this Section shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.

7. 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 the ordinance or resolution relating to the filing of declarations and returns.

(*Ord. 91-1, 9/9/1991, §11.34; as amended by Ord. 2005-08, 10/24/2005*)

#### **§24-105. Powers and Duties of Officer.**

1. It shall be the duty of the officer 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 or business paying the tax and the date of such receipt.

2. Each officer, before entering upon his official duties shall give and acknowledge a bond to the political subdivision or political subdivisions appointing him. If such subdivision or political subdivisions shall by resolution designate any bond previously given by the officer as adequate, such bond shall be sufficient to satisfy the requirements of the subsection.

3. Each such bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of this Commonwealth.

4. Each bond shall be conditioned upon the faithful discharge by the officer, his clerks, assistants and appointees of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required of him by virtue of his office, upon the just and faithful accounting or payment over, according to law, of all monies and all balances thereof paid to, received or held by him by virtue of his office and upon the delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office.

5. Each such bond shall be taken in the name of the appointing authority or authorities, and shall be for the use of the political subdivision or political subdivisions appointing the officer, and for the use of such other person or persons for whom money shall be collected or received, or as his or her interest shall otherwise appear, in cash of a breach of any of the conditions thereof by the acts or neglect of the principal on the bond.

6. The political subdivision or political subdivisions appointing the officer, or any person may sue upon the said bond in its or his own name for its or his own use.

7. Each bond shall contain the name or names of the surety company or companies bound thereon. The political subdivision or political subdivisions appointing the officer shall fix the amount of the bond at any amount equal to the maximum amount of taxes which may be in the possession of the officer at any given time.

8. The political subdivision or political subdivisions appointing the officer may, at any time, upon cause shown and due notice to the officer, and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to such political subdivisions for the purpose of making the bond sufficient in amount, without releasing the surety first approved from any accrued liability or previous action on such bond.

9. The political subdivision or political subdivisions appointing the officer shall designate the custodian of the bond required to be given by the officer.

10. The officer charged with the administration and enforcement of the provisions of the ordinance or resolution is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of the ordinance or resolution, including provisions of the re-examination 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 make refunds in case 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 the ordinance or resolution. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution of the governing body. A copy of such rules and regulations currently in force shall be available for public inspection.

11. The officer shall refund, on petition of, and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.

12. The officer and agents designated by him are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the officer reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed to ascertain the tax due. Every employer and every taxpayer and every person whom the officer reasonably believes to be an employer or taxpayer, is hereby directed and required to give to the officer, or to any agent designated by him, the means, facilities and opportunity for such examination and investigation, as are hereby authorized.

13. Any information gained by the officer, his agents, or by any other official or agent of the taxing district, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by the ordinances or resolution, shall

be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

14. The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

(*Ord. 91-1, 9/9/1991, §11.35*)

**§24-106. Compensation of Income Tax Officer.**

1. The income tax officer shall receive such compensation for his services as shall be determined by the Township Board of Supervisors of the Township of Dover. [*Ord. 2005-08*]

(*Ord. 91-1, 9/9/1991, §11.36; as amended by Ord. 2005-08, 10/24/2005*)

**§24-107. Suit for Collection of Taxes.**

1. The officer may sue in the name of the taxing district for the recovery of taxes due and unpaid under this Part.

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

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

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

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

D. Where any person has deducted taxes under the provisions of this Part, and has failed to pay the amounts so deducted to the officer, or where any person has willfully failed or omitted to make the deductions required by this Section, there shall be no limitation.

E. This Section shall not be construed to limit Board of Supervisors from recovering delinquent taxes by any other means provided by the Act.

3. The officer may sue for recovery of an erroneous refund provided such suit is begun 2 years after making 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 material fact.

(*Ord. 91-1, 9/9/1991, §11.37*)

**§24-108. Interest and Penalties.**

If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of ½ of 1% of the amount of the

unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

(*Ord. 91-1, 9/9/1991, §11.38*)

**§24-109. Fines and Penalties.**

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 compensation in order to avoid the payment of the whole or any part of the tax imposed by this Part, shall, upon conviction thereof 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 of said fine and costs to be imprisoned for a period not exceeding 30 days. [*Ord. 2005-08*]

2. Any person who divulges any information which is confidential under the provisions of this Part, shall, upon conviction thereof 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 of said fine and costs to be imprisoned for a period not exceeding 30 days. [*Ord. 2005-08*]

3. The penalties imposed under this Section shall 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 declaration or returns required by this Part shall not excuse him from making such declaration or return.

(*Ord. 91-1, 9/9/1991, §11.39; as amended by Ord. 2005-08, 10/24/2005*)

**§24-110. Applicability.**

This Part shall not apply to any person or property as to whom or which it is beyond the legal power of the Township of Dover, to levy, assess and impose the tax or duties as herein provided.

(*Ord. 91-1, 9/9/1991, §11.41*)

**§24-111. Authorization.**

This Part and the tax imposed hereby is adopted under and approved by the virtue of the authority contained in the Act of the General Assembly, December 31, 1965, P.L. 1257, §1 *et seq.*, 53 P.S. §6901 *et seq.*, as amended, known as the "Local Tax Enabling Act," as amended.

(*Ord. 91-1, 9/9/1991, §11.42*)



**Part 2****Realty Transfer Tax****§24-201. Authority.**

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate of interest in real estate situated within Dover Township, 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. 91-1, 9/9/1991, §11.81*)

**§24-202. Definitions.**

*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. [*Ord. 2005-08*]

*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 or 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 from recording under §24-202 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:

- A. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing.
- B. The raising, breeding or training of game animals or games birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities.
- C. Fur farming.
- D. Stockyard and slaughterhouse operations.
- E. 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 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 the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

*Real estate* -

A. All lands, tenements or hereditaments within Dover Township 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 or land, but excluding permanently attached machinery and equipment in an industrial plant.

B. A condominium unit.

C. 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:

A. Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate.

B. 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* -

A. 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.

B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term of 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.

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

*Value* -

A. 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 therefore, 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 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.

B. In consideration 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.

C. In the case of an easement or other interest in real estate the value of which is not determinable under subsection .A or .B, the actual monetary worth of such interest.

D. 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 principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(*Ord. 91-1*, 9/9/1991, §11.82; as amended by *Ord. 2005-08*, 10/24/2005)

**§24-203. 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 of the transaction, or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document; which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by (the recorder/other designee) whereon the date of the payment of 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 limitation 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 Dover Township under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be ½ of the rate and such ½ rate shall become effective without any action on the part of Dover Township provided, however that Dover Township and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates ½ 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. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due, shall be added and collected.

(*Ord. 91-1, 9/9/1991, §11.83*)

**§24-204. Exempt Parties.**

The United States, the Commonwealth of Pennsylvania, or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment or the tax imposed by this article. The exemption of governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

(*Ord. 91-1, 9/9/1991, §11.84*)

**§24-205. Excluded Transactions.**

The tax imposed by §24-204 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 Dover Township 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 successor and held by co-tenants; 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 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 1) for no or nominal actual consideration between principal and agent or straw party; or 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 Section.

L. 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 subsection.

M. 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 Section.

N. A transfer from a corporation or association of real estate held of record in the name of the corporation 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.

O. 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.

P. 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; and 2) the agency or authority has the full ownership interest in the real estate transferred.

Q. 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.

R. Any transfer between religious organizations or other bodies of 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.

S. 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.

T. A transfer of real estate devoted to the business or 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.

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

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.

X. 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. 91-1, 9/9/1991, §11.85)*

#### **§24-206. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.**

Except as otherwise provided in this Section, documents which make, confirm or evidence any transfer or demise of time 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. 91-1, 9/9/1991, §11.86)*

#### **§24-207. Acquired Company.**

1. A real estate company is any acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of 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. 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. 91-1, 9/9/1991, §11.87*)

#### **§24-208. 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 carryover credit shall be allowed.

(*Ord. 91-1, 9/9/1991, §11.88*)

#### **§24-209. 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. 91-1, 9/9/1991, §11.89*)

#### **§24-210. Proceeds of Judicial Sale.**

The tax herein imposed shall be fully paid, and have priority out of the proceeds or any judicial sale of real estate before any other obligation, claim, lien, judgment, estate before any other 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. 91-1, 9/9/1991, §11.90*)

**§24-211. 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 tax, including any amount payable to Dover Township based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania Realty Transfer Tax, without compensation from Dover Township.

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 10<sup>th</sup> day of each month, the Recorder shall pay over to Dover Township, one-half of all local realty transfer taxes collected, less 2% for the 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 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.

(*Ord. 91-1, 9/9/1991, §11.91*)

**§24-212. Statement of Value.**

Every document lodged with or presented to the Recorder of Deeds for recording, shall set forth therein 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 the subsection shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. 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 completed value thereof or the reason, if any, why such document is not subject to tax under this Part.

(*Ord. 91-1, 9/9/1991, §11.92*)

**§24-213. Civil Penalties.**

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

2. In the case of failure to record a declaration required under this Section on the date prescribed therefore, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

(*Ord. 91-1, 9/9/1991, §11.93*)

**§24-214. Lien.**

The tax imposed by this Part shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of Dover Township, 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 discharged 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 York County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 *et seq.*, its supplements and amendments.

(*Ord. 91-1, 9/9/1991, §11.94*)

**§24-215. 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. 91-1, 9/9/1991, §11.95*)

**§24-216. Regulations.**

The County of York 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. 91-1, 9/9/1991, §11.96*)



**Part 3****Taxes on Amusement Devices****§24-301. Definitions.**

*Game Devices* - when used in this Part, shall be construed to mean any mechanical, electronic, video or computerized device, machine or apparatus whatsoever for the playing of games and amusements, which upon the insertion of a coin, slug, token, plate, or disc, may be operated as a game, entertainment, or amusement, whether or not registering a score and whether or not a prize is offered.

*Juke Box* - all manner and kinds of coin-operated music boxes or phonographs.

*Person* - when used in this Part shall be construed to include any individual, partnership, unincorporated association or corporation.

*Distributor* - when used in this Part shall be construed to include any person who shall, either as owner or agent, sell, lease, lend, deliver or furnish to, or place or cause to be placed in the possession of any operator, any mechanical device, machine or apparatus whatsoever for the playing of games and amusement, which upon the insertion of a coin, token, plate or disc, may be operated for use as a game, entertainment, or amusement, whether or not registering a score and whether or not a prize is offered.

*Operator* - when used in this Part shall be construed to include any person who shall at any time, keep, operate, have in his possession, or hold out to the public in any business establishment or in any public place within the Township of Dover any such game device, machine or apparatus.

(Ord. 91-1, 9/9/1991, §11.46)

**§24-302. License Required.**

For the year 1984 and each following year no person shall act as an operator or distributor of any such game device without first having procured a license therefor, as hereinafter provided in this Part.

(Ord. 91-1, 9/9/1991, §11.47)

**§24-303. Application for License.**

1. *Application for License as Operator.* Any person desiring to procure a license as operator, as provided in §24-302 of this Part, shall apply therefor in writing to the Township. Said application shall set forth the name(s), the residence(s) of the person(s) so applying, together with the present and previous place of residence; the name of the owner(s) of the premises upon which the aforesaid machines are to be used and installed, and if the owner(s) of the premises is not the applicant, then the applicant shall set forth the length of time for which the premises has been leased. The application shall also set forth the manufacturer and nature of the machine to be installed and used, and the name of the distributor from which the machine is to be secured.

2. *Application for License as Distributor.* Any person desiring to procure a license as distributor, as provided in §24-302 of the Part, shall apply therefor in writing to the Township. Said application shall set forth the name(s), the residence(s) and places of business of the person so applying, together with the present and previous occupation of the applicant(s) and the length of residence at the present and at the previous place of residence.

(Ord. 91-1, 9/9/1991, §11.48)

**§24-304. Requirements for Applicants.**

The information required in §24-303.1 and .2 hereof shall be furnished over the signature of the applicant(s) and shall be made under oath before the Township Manager, Township Secretary, or any other person legally authorized to administer same.

(Ord. 91-1, 9/9/1991, §11.49)

**§24-305. Waiting Period to Issuance of License; License not Transferable.**

No license shall be granted by the Township until a period of 7 days shall have elapsed from the date of the application, during which time he may, at his discretion, investigate the facts set forth in the application. Any license issued under this Part, either for operator(s) or distributor(s) shall be nontransferable to any other person(s).

(Ord. 91-1, 9/9/1991, §11.50)

**§24-306. No Gambling Devices Authorized.**

Nothing in this Part shall in any way be construed to authorize, license or permit any gambling devices whatsoever, or any game devices that have been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any present or future laws of the Commonwealth of Pennsylvania.

(Ord. 91-1, 9/9/1991, §11.51)

**§24-307. Tax for Licenses.**

1. *Tax for Operator's License.* No license shall be issued to an operator until an annual tax therefor shall have been paid to the Secretary-Treasurer of Dover Township in the sum of \$25 for each juke box and \$100 for each gaming device so installed and used, under the terms of this Part, in the Township of Dover, which amount paid as aforesaid shall be a license fee.

2. *Tax for Distributor's License.* No license shall be issued to a distributor until an annual tax therefore shall have been paid to the Secretary-Treasurer of Dover Township in the sum of \$100.

(Ord. 91-1, 9/9/1991, §11.52)

**§24-308. Issuance of Operator's License; Display to Machine.**

Upon payment of the tax imposed in this Part, the Township shall furnish to the person(s) paying such tax a receipt showing machines or juke boxes or both upon which said person(s) has paid a tax, which said receipt shall be prominently displayed by such

person(s) on or adjacent to the gaming devices or juke boxes, upon which such tax has been paid.

(*Ord. 91-1, 9/9/1991, §11.53*)

**§24-309. Loss, Defacement or Destruction of License.**

In the case of loss, defacement, or destruction of any original receipt, license, certificate, or seal, the person(s) to whom such receipt, license, certificate, or seal was issued shall apply to the Township, who may issue a replacement thereof upon the payment of a fee in an amount as established from time to time by resolution of the Board of Supervisors and who shall amend the duplicate of same aforesaid of the first receipt issued in case that a new receipt has been issued.

(*Ord. 91-1, 9/9/1991, §11.54; as amended by Ord. 2005-08, 10/24/2005*)

**§24-310. Penalty for Violation.**

1. *Penalty for Violation by Operators.* For a violation of any provision of this Part enforcement shall be brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Upon conviction thereof, a violator shall be subject to a criminal fine not to exceed \$1,000 per violation plus costs, to a term of imprisonment to the extent allowed by law for the punishment of summary offenses, or to a term of imprisonment for the failure to pay a fine pursuant to the Pennsylvania Rules of Criminal Procedure. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Code or other ordinance which is found to have been violated. Provided, that such fine and penalty shall be in addition to any other penalty imposed by any other section of this Part, including neglecting, failing, or refusing to furnish complete and correct reports or returns or to pay over any tax levied by this Part at the time required, or of knowingly making any complete, false or fraudulent returns; or of attempting to do anything whatever to avoid payment of the whole or any part of the tax imposed under this Part.

2. *Penalty for Violation by Distributors.* Any distributor who shall violate any of the provisions of this Part shall be brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Upon conviction thereof, a violator shall be subject to a criminal fine not to exceed \$1,000 per violation plus costs, to a term of imprisonment to the extent allowed by law for the punishment of summary offenses, or to a term of imprisonment for the failure to pay a fine pursuant to the Pennsylvania Rules of Criminal Procedure. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Code or other ordinance which is found to have been violated.

(*Ord. 91-1, 9/9/1991, §11.55; as amended by Ord. 2005-08, 10/24/2005*)



**Part 4****Mercantile License Tax****§24-401. Definitions.**

*Person* - any individual, partnership, limited partnership, association or corporation. Whenever used in any Section 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.

*Wholesale dealer* or *wholesale vendor* - any person who sells to dealers in, or vendors of, goods, wares, and merchandise and to no other persons.

*Retail dealer* or *retail vendor* - any person who is a dealer in or vendor of goods, wares and merchandise who is not a wholesale dealer or vendor.

*Person, wholesale dealer, wholesale vendor, retail dealer, and retail vendor* - include nonprofit corporations organized for religious, charitable or educational purposes, and association organized for such purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania, or any person vending or disposing of articles of his own growth, production or manufacture for shipment or delivery from the place of growth, production or manufacture thereof.

*License year* - the 12-month period beginning the 1<sup>st</sup> day of February in each and every year.

*Gross volume of business* - shall include both cash and credit transactions.

*Tax collector* - the Tax Collector of Dover Township.

*Temporary, seasonal or itinerant business* - any business that is conducted at one location for less than 60 consecutive days.

(Ord. 91-1, 9/9/1991, §11.61)

**§24-402. Levy and Collection of Tax.**

For the license year, Dover Township hereby imposes an annual mercantile license tax in the manner and in the rates hereinafter set forth.

(Ord. 91-1, 9/9/1991, §11.62)

**§24-403. Licenses.**

For the license year beginning February 1, and for each license year thereafter, every person desiring to continue to engage in, or hereafter to begin to engage in the business of wholesale or retail vendor, or dealer in goods, wares and merchandise and any person conducting a restaurant or other place where food, drink or refreshments are sold, whether or not the same be incidental to some other business or occupation in Dover Township, shall on or before the 15<sup>th</sup> day of February, and on or before the 15<sup>th</sup> day of February for each license year thereafter, or prior to commencing business during such license year, procure a mercantile license for his place of business, or if more than one, for each of his places of business in the Township, from the Tax

Collector as required by law. Such license shall be conspicuously posted at the place of business or each of the places of business of every person at all times.

(Ord. 91-1, 9/9/1991, §11.63)

#### **§24-404. Imposition and Rate of Tax.**

Every person engaged in any of the following occupations or businesses in the Township shall pay an annual mercantile tax for the license year beginning February 1, 1984, and for each license year thereafter beginning on the 1<sup>st</sup> day of February, at the rate set forth:

A. Wholesale vendors or dealers in goods, wares and merchandise, at the rate of  $\frac{1}{2}$  of a mill on each dollar of the volume of the annual gross business transacted by him.

B. Retail vendors, or dealers in goods, wares and merchandise, and all persons engaged in conducting restaurants or other places where food, drink, or refreshment are sold, whether or not the same be incidental to some other business or occupation, at the rate of  $1\frac{1}{2}$  mills on each dollar of the volume of the annual gross business transacted by him.

C. Wholesale and retail vendors or dealers in goods, wares and merchandise, at the rate of  $\frac{1}{2}$  of a mill on each dollar of the volume of the annual gross wholesale business transacted by him, and  $1\frac{1}{2}$  mills on each dollar of the volume of the annual gross retail business transacted by him.

D. The tax imposed by this Section shall not apply to the dollar volume of annual business covering the resale of goods, wares or merchandise taken by a dealer as a trade-in or part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

(Ord. 91-1, 9/9/1991, §11.64)

#### **§24-405. Computation of Volume of Business.**

1. Every person subject to the payment of the tax hereby imposed who has commenced his business at least 13 full months prior to the beginning of the license year shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the preceding calendar year.

2. Every person subject to the payment of the tax hereby imposed who has commenced or who commences his business less than 13 full months prior to the beginning of the license year, shall compute his annual gross volume of business for such license year by multiplying by twelve the monthly average of the actual gross amount of business transacted by him during the months in the preceding calendar year he was engaged in business.

3. Every person subject to the payment of the tax hereby imposed who commences his business less than 1 full month prior to the end of the preceding calendar year or prior to the beginning of any license years shall compute his annual gross volume of business for such license year upon the gross volume of business transacted by him during the first month of his engaging in business multiplied by the number of months, or fractions thereof, he engages in business in the present calendar year.

4. Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal or itinerant by its nature, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the license year.

5. The Tax Collector is hereby authorized to accept payment under protest of the amount of mercantile tax claimed by the Township in any case where the taxpayer disputes the validity or amount of the Township's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that the Township has been overpaid, the amount of the overpayment shall be refunded to the taxpayer. The provisions of this Section shall be applicable to cases in which the facts are similar to those in a case litigated in a court of competent jurisdiction.

(*Ord. 91-1, 9/9/1991, §11.65*)

**§24-406. Returns.**

1. Every return shall be made upon a form furnished by the Tax Collector. Every person making a return shall certify the correctness thereof by affidavit.

2. Every person subject to the tax imposed by this Part who commenced his business at least 13 full months prior to the beginning of any license year shall on or before the 15<sup>th</sup> day of April, filed with the Tax Collector a return setting forth his name, his business and business address, and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, and the amount of the tax due. [*Ord. 94-7*]

3. Every person subject to the tax imposed by this Part who has commenced his business less than 13 full months prior to the beginning of any license year shall on or before the 15<sup>th</sup> day of March, 1984, file with the Tax Collector a return setting forth his name, his business, business address, and such other information as may be necessary in arriving at the monthly average of the actual gross amount of business transacted by him during the months in the preceding calendar year he was engaged in business and the amount of tax due.

4. Every person subject to the tax imposed by this Part who commences business less than 1 full month prior to the end of the preceding calendar year or prior to the beginning of any license year shall within 60 days from the date of commencing such business file a return with the Tax Collector setting forth his name, his business and business address, and such information as may be necessary in arriving at the actual gross amount of business transacted by him during his first month of business and the amount of the tax due.

5. Every person subject to the payment of the tax imposed by this Part who engages in a business temporary, seasonal or itinerant by its nature, shall within 7 days from the day he completes such business file a return with the Tax Collector setting forth his name, his business and business address, and such information as may be necessary in arriving at the actual gross amount of business transacted by him during such period and the amount of tax due.

(*Ord. 91-1, 9/9/1991, §11.66; as amended by Ord. 94-7, 12/12/1994*)

**§24-407. Payment.**

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

(*Ord. 91-1, 9/9/1991, §11.67*)

**§24-408. Powers and Duties of Tax Collector.**

1. It shall be the duty of the Tax Collector 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 the date of each receipt.

2. The Tax Collector is hereby charged with the administration and enforcement of the provisions of this Part, and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the re-examination and correction of returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred. The Tax Collector shall have the right to appeal to a court or courts of competent jurisdiction as in other cases provided.

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

(*Ord. 91-1, 9/9/1991, §11.68*)

**§24-409. Confidential Nature of Returns.**

Any information gained by the Tax Collector, or any other officer, official, agent or employee of the Township as a result of any returns, investigations, hearings or verifications required or authorized by this Part shall be confidential except in accordance with proper judicial order or as otherwise provided by law, and divulgence of any information so gained is hereby declared to be a violation of this Part, which may be punishable by dismissal from office employment.

(*Ord. 91-1, 9/9/1991, §11.69*)

**§24-410. Suit on Collection: Penalty.**

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

2. If for any reason the tax is not paid when due in each year, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of 1% per annum 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 interest and penalties herein imposed.

(*Ord. 91-1, 9/9/1991, §11.70*)

**§24-411. Fine and Penalties.**

Whoever makes any false or untrue statement on his return, or who refuses to permit inspection of the books, records or accounts of any business in his custody or control, when the right to make such inspection by the Tax Collector is requested and whoever, fails, or refuses to file a return required by this Part, and whoever fails or refuses to keep his license conspicuously posted at his place of business as herein required, upon conviction thereof, shall be subject to a criminal fine not to exceed \$1,000 per violation plus costs, to a term of imprisonment to the extent allowed by law for the punishment of summary offenses, or to a term of imprisonment for the failure to pay a fine pursuant to the Pennsylvania Rules of Criminal Procedure. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Code or other ordinance which is found to have been violated. (*Ord. 91-1*, 9/9/1991, §11.71; as amended by *Ord. 2005-08*, 10/24/2005)

**§24-412. Savings and Severability Clauses.**

1. Nothing contained in this Part shall be construed to empower the Township to levy and collect the taxes hereby imposed on any person, or any business, or any portion of any business not within the taxing power of the Township under the Constitution of the United States and the Laws and Constitution of the Commonwealth of Pennsylvania.

2. If the tax, or any portion thereof, imposed upon any person under the provisions 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 Commonwealth of Pennsylvania, the decision of the Court shall not affect or impair the right to impose the taxes, or the validity of the taxes so imposed upon other persons as herein provided.

3. The provisions of this Part are severable, and, if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the Court shall not affect or impair any of the remaining provisions of this Part. It is hereby declared to be the intention of the Supervisors of Dover Township that this Part would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

(*Ord. 91-1*, 9/9/1991, §11.72)



**Part 5****Business Privilege Tax****§24-501. Definitions.**

*Person* - any individual, partnership, limited partnership, association or corporation, but shall not include a wage earner, a non-profit corporation organized for religious, charitable or educational purposes, an association for such purposes, any agency of the Government of the United States or of the Commonwealth of Pennsylvania or any public utility.

*Service* - any act or instance of helping or benefitting another for a consideration.

*Privilege year* - the calendar year.

*Gross receipts* - shall include both cash and credit transactions, and shall include payment received for gross charges made by the taxpayer for services rendered, including both service, labor and any materials entering into or becoming component parts of the services performed.

*Tax collector* - shall include the Tax Collector of Dover Township.

*Temporary, seasonal or itinerant business* - any business that is conducted at one location for less than 60 consecutive days.

(Ord. 91-1, 9/9/1991, §11.11)

**§24-502. Authority to Levy and Collect Tax.**

Dover Township hereby imposes a business privilege tax for the privilege year in the manner and at the rate hereinafter set forth. Except as hereinafter provided, such tax shall be in addition to any other tax levied and collected under any existing ordinance. This Part is enacted under the authority of Act 511, approved December 31, 1965.

(Ord. 91-1, 9/9/1991, §11.12)

**§24-503. Imposition and Rate of Tax.**

1. Every person engaging in a business, trade, occupation or profession, hereinafter listed in Dover Township and maintaining a place, office, or establishment within Dover Township for the conduct of said business, trade, occupation or profession, shall pay a business privilege tax at the rate of 1½ mills on his gross receipts derived from all services rendered to clients, patients and customers.

2. Every person engaging in a business, trade, occupation or profession, hereinafter listed in Dover Township and maintaining no place, office or establishment within Dover Township for the conduct of said business, trade, occupation or profession shall pay a business privilege tax at the rate of 1½ mills on his gross receipts derived from all services rendered within Dover Township to clients, patients and customers.

A. Printers; lithographers; processors; laundry operators; laundrette operators; warehousemen; upholsterers; doctors; lawyers; dentists; engineers; architects, chemists; chiropractors; chiropractists; certified public accountant; public accountant; real estate brokers; cleaning, pressing, and dyeing establishment

operators; shoe repair shop operators; tailors; dressmakers; electrical; plastering; bricklaying; carpentry; hearing; ventilating; plumbing and painting contractors; contractors engaged in the classes of heavy building or other construction of any kind or in the alteration, maintenance or repair thereof; truckers; housing contractors; repairer of electrical, electronic or automotive machinery or equipment of other machinery and equipment and other wares and merchandise; and all other businesses, trades, occupations and professions in which there is offered any service or services to the general public or a limited number thereof.

(Ord. 91-1, 9/9/1991, §11.13)

**§24-504. Determination of Gross Receipts.**

1. Every person subject to the payment of the tax hereby imposed, who has commenced his business at least 1 full year prior to the beginning of the license year, shall determine his gross receipts for the license year from his actual gross receipts for the preceding calendar year.

2. Every person subject to the payment of the tax hereby imposed, who has commenced his business less than 1 full year prior to the beginning of the license year, shall determine his gross receipts for the license year by multiplying his actual gross receipts for the first month he engages in business by 12.

3. Every person subject to the payment, of the tax hereby imposed, who commences his business subsequent to the beginning of the license year, shall determine his gross receipts for the license year by multiplying his actual gross receipts for the first month he engages in business by the number of months, or fractions thereof, he engages in business in the license year.

4. Every person subject to the payment of the tax hereby imposed, who engages in a business temporary, seasonal or itinerant in its nature, shall determine his gross receipts for the license year from his actual gross receipts for the license year.

5. The collector is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Township in any case where the taxpayer disputes the validity or amount of the Township's claim for tax. It is thereafter judicially determined by a court of competent jurisdiction that the Township has been overpaid, the amount of the overpayment shall be refunded to the taxpayer. The provisions of this Section shall be applicable to cases in which the facts are similar to those in a case litigated in a court of competent jurisdiction.

(Ord. 91-1, 9/9/1991, §11.14)

**§24-505. Registration.**

Any person subject to the tax hereby imposed shall, on or before the 15<sup>th</sup> day of January, 1984, or prior to commencing business in such license year, register with the Tax Collector and, having once registered with the Tax Collector, registration annually thereafter is not required.

(Ord. 91-1, 9/9/1991, §11.15)

**§24-506. Returns.**

1. Every return shall be made upon a form furnished by the Tax Collector. Every person making a return shall certify the correctness thereof by affidavit.

2. Every person subject to the tax imposed by this Part who commenced his business at least 1 full year prior to the beginning of any license year shall on or before the 15<sup>th</sup> day of April, file with the Tax Collector a return setting forth his name, his business and business address, and such other information as may be necessary in arriving at his actual gross receipts during the preceding calendar year, and the amount of the tax due. [*Ord. 94-7*]

3. Every person subject to the tax imposed by this Part who has commenced his business less than 1 full year prior to the beginning of any license year shall on or before the 15<sup>th</sup> day of April, file with the Tax Collector a return setting forth his name, his business, business address, and such other information as may be necessary in arriving at his actual gross receipts during the first month of business and the amount of tax due. [*Ord. 94-7*]

4. Every person subject to the tax imposed by this Part who commences business subsequent to the beginning of any license year shall within 40 days from the date of commencing such business file a return with the Tax Collector setting forth his name, his business and business address, and such information as may be necessary in arriving at his actual gross receipts during his 1<sup>st</sup> month of business and the amount of tax due.

5. Every person subject to the payment of the tax imposed by this Part who engages in a business temporary, seasonal or itinerant by its nature, shall within 7 days from the date he completed such business file a return with the Tax Collector setting forth his name, his business and business address, and such information as may be necessary in arriving at his actual gross receipts during such period and the amount of tax due.

(*Ord. 91-1, 9/9/1991, §11.16; as amended by Ord. 94-7, 12/12/1994*)

**§24-507. Payment.**

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

(*Ord. 91-1, 9/9/1991, §11.17*)

**§24-508. Powers and Duties of Tax Collector.**

1. It shall be the duty of the Tax Collector 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 the date of each receipt.

2. The Tax Collector is hereby charged with the administration and enforcement of the provisions of this Part, and is hereby powered 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 re-examination and correction of returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred. Any person aggrieved by any

decision of the Tax Collector shall have the right to appeal to a court or courts of competent jurisdiction as in other cases provided.

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

(*Ord. 91-1, 9/9/1991, §11.18*)

#### **§24-509. Confidential Nature of Returns.**

Any information gained by the Tax Collector, or any other officer, official, agent or employee of the Township as a result of any returns, investigations, hearings, or verifications, required or authorized by this Part shall be confidential except in accordance with proper judicial order or as otherwise provided by law, and divulgence of any information so gained is hereby declared to be a violation of this Part, which may be punishable by dismissal from office or employment.

(*Ord. 91-1, 9/9/1991, §11.19*)

#### **§24-510. Suit on Collection/Penalty.**

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

2. If for any reason the tax is not paid when due in each year, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of 1% per annum 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 interest and penalties herein imposed.

(*Ord. 91-1, 9/9/1991, §11.20*)

#### **§24-511. Fines and Penalties.**

Whoever makes any false or untrue statement of his return, or who refuses to permit inspection of the books, records or accounts of any business in his custody or control, when the right to make such inspection by the Tax Collector is requested, and whoever fails or refuses to file a return required by this Part, upon conviction thereof, shall be subject to a criminal fine not to exceed \$1,000 per violation plus costs, to a term of imprisonment to the extent allowed by law for the punishment of summary offenses, or to a term of imprisonment for the failure to pay a fine pursuant to the Pennsylvania Rules of Criminal Procedure. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Code or other ordinance which is found to have been violated.

(*Ord. 91-1, 9/9/1991, §11.21; as amended by Ord. 2005-08, 10/24/2005*)

#### **§24-512. Savings and Severability.**

1. Nothing contained in this Part, shall be construed to empower the Township to levy and collect the taxes hereby imposed on any person, or any business, or any portion of any business not within the taxing power of the Township under the Constitution of the United States and the Laws and Constitution of the Commonwealth of Pennsylvania.

2. If the tax, or any portion thereof, imposed upon any person under the provisions 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 Commonwealth of Pennsylvania, the decision of the court shall not affect or impair the right to impose the taxes, or the validity of the taxes so imposed upon other persons as herein provided.

3. The provisions of this Part are severable, and, if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the Court shall not affect or impair any of the remaining provisions of this Part. It is hereby declared to be the intention of the Supervisors of Dover Township that this Part would have been adopted if such illegal, invalid or unconstitutional provision had not been included herein.

*(Ord. 91-1, 9/9/1991, §11.22)*



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**Part 6****Tax Certification****§24-601. Purpose.**

The Board of Supervisors finds that the efficient and orderly transfer of real estate within Dover Township requires that the purchasers of real estate or their representatives be able to determine the status of real estate tax payments on property within the Township.

*(Ord. 92-1, 1/13/1992, §1)*

**§24-602. Tax Collector Authorized.**

The duly elected or appointed Tax Collector of Dover Township from time to time serving is designated as the Township official authorized to issue in the form of a certification the status of real estate tax payments on all real estate within Dover Township.

*(Ord. 92-1, 1/13/1992, §2)*

**§24-603. Fee.**

The Board of Supervisors shall, by resolution, establish the fee or charge to be paid to the Township for a certification for each tax parcel of real estate. Such fee or charge shall be collected and retained by the Tax Collector as compensation for providing the service authorized by this Part.

*(Ord. 92-1, 1/13/1992, §3)*



**Part 7****Local Taxpayers Bill of Rights****§24-701. Purpose.**

This Part is adopted to comply with Act 50 of 1998, the Local Taxpayers Bill of Rights, 53 Pa.C.S.A. §8421 *et seq.* (the “Act”).

(*Ord. 99-1, 1/11/1999, §1*)

**§24-702. Eligible Taxes.**

This Part shall apply to the following eligible taxes levied by Dover Township: (a) per capita tax; (b) earned income and net profits tax; (c) amusement device tax; (d) mercantile license tax; (e) business privilege tax; (f) any other eligible taxes permitted under the Act now or hereafter levied by the Township.

(*Ord. 99-1, 1/11/1999, §2; as amended by Ord. 2005-08, 10/24/2005*)

**§24-703. Disclosure Statement.**

The Township shall adopt by resolution a disclosure statement setting forth the rights of a taxpayer and the obligation of the local taxing authority during an audit or an administrative review of the taxpayer’s books or records, the administrative and judicial procedures by which a taxpayer may appeal or seek review of any adverse decision of the local taxing authority, the procedure for filing and processing claims and taxpayer complaints, and the enforcement procedures. The Township shall notify in the manner provided by law any taxpayer contacted regarding availability of the disclosure statement, and the Township shall make copies of the disclosure statement available to taxpayers upon request at no charge to the taxpayer.

(*Ord. 99-1, 1/11/1999, §3*)



**Part 8****Local Services Tax****§24-801. Short Title.**

This Part shall be known and may be cited as the “Local Services Tax” Ordinance. (Ord. 2009-08, 11/23/2009, §1)

**§24-802. 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 clearly indicates or requires a different meaning:

*Collector*—the person or firm, from time to time, designated by resolution of the Board of Supervisors to collect and administer the provision of this Part and collect the tax levied by this Part.

*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 persons on active military service. Employee business expenses are allowable deductions as determined under Article III of the “Tax Reform Code of 1971.” Any housing allowance provided to a member of the clergy shall not be taxable as earned income.

*Employer*—a person, partnership, association, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission, fee or other compensation basis, including a self-employed person.

*He, his or him*—shall include singular and plural number and male, female and neuter gender.

*Net profits*—the net income from the operation of a business, profession, or other activity, (except from 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. 1, 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 generated from monetary accounts or investment instruments of the farming business.
- (2) Any gain on the sale of farming 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.

*Occupation*—any trade, profession, business or undertaking of any type, kind or character including services, domestic or other, carried on or performed within the jurisdictional limits of Dover Township for which compensation is charged

and/or received, whether by salary, wages, commissions, fees or net profits for services rendered.

*Person*—any individual engaged in any occupation, trade or profession within the jurisdictional limits of the Township.

*Tax*—the local services tax levied in this Part.

*Township*—Dover Township.

*Year*—a calendar year.

(Ord. 2009-08, 11/23/2009, §1)

### **§24-803. Levy of Tax.**

1. The Township hereby levies and imposes on every person engaging in an occupation within the jurisdictional limits of Dover Township a tax in the amount of \$52 per annum, beginning the first day of January, 2010, and continuing on a calendar basis annually thereafter, until modified or repealed by subsequent ordinance. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township.

2. The Township shall use the revenue derived from this tax for the following purposes; provided, however, that no less than 25% percent of the funds derived from this tax shall be used for emergency services, as defined herein:

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.

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), and, in accordance with §22.6 of Act 7 of 2007, as amended from time to time.

3. The local services tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

(Ord. 2009-08, 11/23/2009, §1)

### **§24-804. Exemptions.**

1. *Exemption.* Any person whose total earned income and net profits from all sources within the Township is less than \$12,000 for any calendar year in which the local services 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 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 taxable year. A "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. A person seeking to claim an exemption from the local services tax must annually file an exemption certificate with the collector of the tax for the political subdivision levying the tax and file a copy of the certificate with the person’s employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Township of less than \$12,000 in the calendar year for which the exemption certificate is filed. The exemption certificate shall have attached to it a copy of all of the employee’s last pay stubs or W-2 forms from employment within the Township for the year prior to the fiscal year for which the employee is requesting to be exempted from the local services tax.

3. Upon receipt of the exemption certificate and until otherwise instructed by the collector of the tax for the Township the employer shall not withhold the tax from the person during the calendar year or remainder of the calendar year for which the exemption certificate applies. With respect to a person who claimed an exemption from the local services tax, upon notification to an employer by the person or by the collector of the tax for the Township, that the person has received earned income and net profits from all sources within the Township that are 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 that Township 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 as follows:

A. If a person who claimed an exemption for a given calendar year from the local services tax becomes subject to the tax for the calendar year the employer shall withhold the tax for the remainder of that calendar year.

B. The employer shall withhold from the person, for the first payroll period after receipt of the notification under the above paragraph, a lump sum equal to the amount of the tax that was not withheld from the person due to the exemption certificate filed by the person, plus the per payroll amount due for that first payroll period.

C. 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.

4. In the event the employment of a person subject to withholding of the local services tax under this exception is severed in that calendar year, the person shall be liable for any outstanding balance of tax due and the Township may pursue collection under this Act.

5. Except as provided for in subsection .4 above, employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from a local services tax.

6. Employers shall be responsible for retaining a copy of all exemption certificates filed by employees within a given calendar year for a minimum of 3 years. Employers who have failed to withhold the local services tax from an employee or employees, and do not have copies of the employee exemption certificate or certificates, will be held

responsible for the payment of the local services tax as if the tax had been originally levied against the employer.

(*Ord. 2009-08, 11/23/2009, §1*)

**§24-805. Duty of Employer.**

1. Each employer within the Township and each employer situate outside the Township who engages in business within the Township, 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 Township. Each person subject to the tax shall be assessed a pro rata share of the tax for each payroll period in which the person is engaging in an occupation.

2. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the local services 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.

3. Employer collection of the local services tax shall be made on a payroll period basis for each payroll period, beginning with the first payroll period in which the person is engaging in an occupation.

4. No employer shall be held liable for failure to withhold the local services tax or for the payment of the withheld tax money to the Township if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed.

(*Ord. 2009-08, 11/23/2009, §1*)

**§24-806. Returns.**

1. Employers are required to make and file a local services tax quarterly return 30 days after the end of each quarter of a calendar year. The local services tax quarterly return shall list the name, address, Social Security number of the employee; the physical address of the employee's place of employment; the number of payroll periods for which the local services tax was withheld and the amount of local services tax being remitted for each employee.

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

(*Ord. 2009-08, 11/23/2009, §1*)

**§24-807. Persons Engaged in More than One Occupation.**

1. 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 the payroll period, the priority of claim to collect 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.

2. In the case of concurrent employment, an employer shall refrain from withholding the local services tax, if the employee provides:

A. 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.

B. 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.

3. 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. It is the intent of this Section that no person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

*(Ord. 2009-08, 11/23/2009, §1)*

#### **§24-808. Self-Employed Persons.**

All self-employed persons and persons whose employer is not required to withhold local taxes (certain State and Federal agencies) will be billed quarterly for the local services tax. The full amount of tax must be paid by the date indicated on such billing. If such taxpayer qualifies for a low-income exemption, the taxpayer may complete the required exemption certificate or make application for a refund of the tax paid.

*(Ord. 2009-08, 11/23/2009, §1)*

#### **§24-809. Employees and Self-Employed Persons Residing Beyond the Limits of the Township.**

All employers and self-employed persons residing or having their place of business outside the Township but who engage in any occupation within the Township, 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 Township. Further, any person engaged in an occupation within the Township and an employee of a non-resident employer may for the purpose of this Part be considered a self-employed person and in the event this tax is not paid, the collector shall have the option of proceeding against either the employer or employee for collection of this tax as hereinafter provided.

*(Ord. 2009-08, 11/23/2009, §1)*

**§24-810. Administration of Tax.**

1. It shall be the duty of the collector to accept and receive payments of this tax and keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received. It shall be the duty of the collector to accept and keep a record of the information submitted by employers relating to the number of employees subject to the tax, the number of employees exempt from the tax, the employee exemption certificates and refunds of the tax paid to persons and employers. It further shall be the duty of the collector, on behalf of the Township, to provide a taxpayer a receipt of payment upon written request of the taxpayer.

2. The collector is hereby charged with the administration and enforcement of this Part and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination of the 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 to the Court of Common Pleas of York County as in other cases provided.

3. The collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer; or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the collector the means, facilities and opportunity for such examination.

*(Ord. 2009-08, 11/23/2009, §1)*

**§24-811. Suit for Collection.**

1. In the event any of the tax under this Part remains due or unpaid 30 days after the due date set forth above, the collector may sue for the recovery of such tax due or unpaid together with interest and penalty.

2. If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of 10% shall be added to the flat rate of said tax for non-payment thereof. Where suit is brought for the recovery of this tax, the person liable therefore shall, in addition, be responsible and liable for the costs of collection, including, but not limited to, attorney's fees.

*(Ord. 2009-08, 11/23/2009, §1)*

**§24-812. Fine and Penalty.**

Whoever makes any false or untrue statement on any return required by this Part, or who refuses inspection of his books, records or accounts in his custody and control in order to determine the number of employees subject to this tax who are in his employment, or who fails or refuses to file any return required by this Part, or fails or refuses to pay the tax herein levied shall, upon conviction, be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, be sentenced to a term of imprisonment not to exceed 30 days. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refused to file a return required by this Part.

(Ord. 2009-08, 11/23/2009, §1)

**§24-813. Refunds.**

1. Refunds are to be paid within 75 days of a refund request or 75 days after the last day the employer is required to remit the local services tax for the last quarter of the calendar year, under §9 of Act 7 of 2007, whichever is later and shall not be subject to interest if paid within the allowed time.

2. Refunds shall only be provided for amounts overpaid in a calendar year that exceed \$1.

3. *Refund Due to Duplication of Payment.* If at any time during the calendar year a taxpayer pays more than \$52 in combined LST, the taxpayer may apply for a refund of the amount over \$52. The proper refund request form must be completed and signed by the taxpayer and necessary documentation must be included. These refunds may be processed at the time they are received, unless there is reason to believe the Township will not receive the tax from the employer.

4. When a person's "earned income and net profits" only, for the calendar year is less than the \$12,000 exemption, at the end of the calendar year, any taxpayer who qualifies may complete a refund application and include a copy of the necessary documentation.

(Ord. 2009-08, 11/23/2009, §1)

