

Chapter 24

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

The following words and phrases, when used in this Part, shall have the meanings ascribed to them in the Local Tax Enabling Act, 53 P.S. §6301 *et seq.*:

- “Association”
- “Business”
- “Corporation”
- “Current Year”
- “Domicile”
- “Earned Income”
- “Employer”
- “Income Tax Officer or Officer”
- “Net Profits”
- “Non-Resident”
- “Person or Individual”
- “Preceding Year”
- “Resident”
- “Succeeding Year”
- “Taxpayer”

(*Ord. 651, 11/10/1977, §1*)

§24-102. Imposition of Tax; Modifications of Previous Levy.

1. A tax for general purposes of 1% is hereby imposed on the following:
 - A. Earned income received by individual residents of the Borough.
 - B. Earned income received by individual nonresidents of the Borough in the Borough.
 - C. Net profits, earned by residents of the Borough.
 - D. Net profits earned in the Borough by nonresidents of the Borough.
2. The tax levied under subsections .1 and .2 herein shall relate to and be imposed upon earned income paid by an employer or on his behalf to a person who is employed by him. The tax levied under subsections .3 and .4 herein shall relate to and be imposed on the net profits of any business, profession or other activity carried on by any person or persons.
3. The tax levied under subsections .1 and .3, being a continuation of a tax previously levied for the current year, shall continue in effect except that to the extent certain individuals were previously granted an exemption from paying the tax by reason of age, said exemption is rescinded effective January 1, 1978.
4. The tax levied under subsections .2 and .4 on nonresidents of this municipality in this municipality being a new levy shall become effective January 1, 1978.
5. The tax levied under subsections .1, .2, .3 and .4 shall continue in force on a calendar year or taxpayer fiscal year basis without annual reenactment.

(*Ord. 651, 11/10/1977, §2*)

§24-103. Returns and Payment of Tax.

1. Every taxpayer earning net profits or receiving earned income in the current year shall, on or before April 15 of the succeeding year, make and file with the Income Tax Officer a return thereof (on forms, and furnishing information, prescribed by the Income Tax Officer) and pay the tax (or balance thereof after crediting employers' withholding) due thereon.

2. Further details concerning taxpayers' payment and making returns of tax levied by this Part are set forth in the mandatory provisions, and also in the optional provisions (hereby adopted by this Borough Council) relating to annual or final returns and annual payments of tax, in §13(III) of the enabling act 53 P.S. §6913 (III). This Borough Council hereby adopts the optional provisions in said §13 (III) relating to filing of declarations of estimated net profits and quarterly returns and payments of tax by taxpayers; and such declarations or quarterly returns or payments by taxpayers are required by this Part.

3. When the return of a taxpayer is made for a fiscal year different from the calendar year, the return shall be made and the tax due thereon paid within 3 months and 15 days from the end of the said fiscal year.

(*Ord. 651, 11/10/1977, §3*)

§24-104. Employers' Collection at Source.

1. Every employer within the Borough is required to register, to deduct tax from employees' earned income, to file quarterly reports and make remittances, and to do other acts as fully set forth in §13(IV) of the enabling act, 53 P.S. §6913 (IV).

2. In addition, every employer having a factory, workshop, branch, warehouse or other place of business within the Borough, is required to register to deduct tax from the earned income of employees employed outside the Borough but domiciled within the Borough, to file quarterly reports and make remittances and to do other acts as fully set forth in §13(IV) of the enabling act, 53 P.S. §6913 (IV).

(*Ord. 651, 11/10/1977, §4*)

§24-105. Collection at Source.

1. The failure or omission of any employer to make the deductions required by §24-104 hereof shall not relieve any employee from the payment of the tax or from complying with the requirements of this Part relative to the filing of declarations and returns.

2. If any employer makes a deduction of tax as required by this Part, the amount deducted shall constitute in the hands of such an employer a trust fund held for the account of the Borough as beneficial owner thereof and the employee from whose salaries, wages, commissions, or other compensation such tax was deducted shall be deemed to have paid such tax.

3. To the extent an employer was previously permitted to deduct from a tax remittance a 2% commission from the tax withheld, said previous ordinance is

amended, and said commission is eliminated effective with the quarter beginning January 1, 1978.

(*Ord. 651, 11/10/1977, §5*)

§24-106. Suit for Collection of Tax, Interest and Penalties.

1. Suits for collection of tax are hereby authorized and interest and penalties shall be imposed as provided in §13(VII) and (VIII) of the enabling act, 53 P.S. §6913 (VII) and (VIII).

2. 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.

3. Notwithstanding prior mention in this Part, for convenience of reference only, of specific subsections of §13 of said Act, all provisions of the entire §13 of said Act, are hereby incorporated into this Part by this reference as required by the Enabling Act. Any provisions which any future supplements to or amendments of the Enabling Act may require to be included in or construed to be a part of any tax on earned income or net profits, or any ordinance levying the same, shall automatically become a part of this Part upon the effective date of such supplement or amendment, without the need for formal amendment of this Part by the Council of the Borough.

(*Ord. 651, 11/10/1977, §6*)

§24-107. Payments and Refunds.

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

(*Ord. 651, 11/10/1977, §7*)

§24-108. Income Tax Officer.

The Income Tax Officer shall perform all the duties, be subject to all the requirements, and have all the powers prescribed by §13(V) of the enabling act, 53 P.S. §6913 (V).

(*Ord. 651, 11/10/1977, §8*)

Part 2**Per Capita Tax****§24-201. Levy of Tax.**

By authority granted to boroughs in the Commonwealth of Pennsylvania by the Local Tax Enabling Act of 1965, as amended and supplemented, a per capita tax of \$5 per annum is hereby levied and assessed on each resident of the Borough of Shillington over 18 years of age, for the tax year 1973 and annually thereafter, including the assessment and collection of an interim per capita tax on persons not listed or overlooked, or nonresidents when the original per capita tax list was compiled, which tax shall be in addition to all other taxes levied and assessed by the said Borough.

(*Ord. 472, 7/13/1967, §1; as amended by Ord. 534, 7/17/1970, §2; and by Ord. 592, 11/9/1972, §1*)

§24-202. Collection of Tax; Discounts and Penalties.

Said tax shall be collected by the duly elected or appointed tax collector of the Borough of Shillington in the same manner and at the same time or times as other borough taxes are collected in accordance with the Local Tax Collection Law of 1945, as amended under Act of 1951, etc., and subject to the penalties prescribed therein; and, in the case of an assessment and collection of an interim per capita tax, a 2% discount will be allowed on the per capita tax assessed if it is paid within 60 days of the date of billing and a penalty of 5% if the same is paid after 120 days from the date of billing.

(*Ord. 472, 7/13/1967, §2; as amended by Ord. 534, 7/17/1970, §3*)

§24-203. Tax Collector's Compensation.

The compensation of the tax collector for the collection of said tax shall be the same as fixed from time to time by the Council of the Borough of Shillington for the collection of other Borough taxes.

(*Ord. 472, 7/13/1967, §3*)

§24-204. Local Tax Collection Law Applicable.

It is the intent of this Part, and there is hereby conferred upon the tax collector all the powers, together with all the duties and obligations, to the same extent and as fully as provided for in the Local Tax Collection Law of 1945, as amended.

(*Ord. 472, 7/13/1967, §4, as amended by Ord. 534, 7/17/1970, §3*)

§24-205. Report of Changes in Occupancy of Real Estate.

It shall be the obligation of all persons or corporations owning or leasing real estate within the Borough of Shillington to notify the Borough Secretary and/or Borough tax collector, in writing, of any changes in occupancy of said property or properties within 30 days of said change.

(*Ord. 472, 7/13/1967, §5*)

Part 3**Business Privilege Tax****§24-301. Short Title.**

This Part shall be known as the "Business Privilege Tax Ordinance."
(*Ord. 733, 12/8/1983, §1*)

§24-302. 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 a different meaning:

Business - any activity carried on or exercised for gain or profit in the Borough of Shillington, including, but not limited to, the sale of merchandise or other tangible personalty or the performance of services and the rental of personalty and/or realty.

Calendar year - the period of January 1 to December 31, inclusive.

Borough - the Borough of Shillington.

Gross volume of business - the actual gross consideration credited or received for or on account of sales made, rental and/or services rendered by any business subject to the tax imposed by this Part. For the purposes of the Part "gross volume of business" is intended also to mean "whole volume of business."

License year - the period from January 1 to December 31, inclusive.

Person - any individual, partnership, limited partnership, association, firm or corporation. Whenever used in any clause prescribing or 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.

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

Taxpayer - a person subject to the payment of the tax imposed by the Part.

Tax administrator - the person duly appointed by the Council of the Borough of Shillington to administer the within tax.

Tax year - the period from January 1 to December 31, inclusive.

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

(*Ord. 733, 12/8/1983, §2; as amended by Ord. 734, 12/8/1983, §1*)

§24-303. Tax Levy; Computation.

There is hereby levied for the tax year 1984, and annually thereafter, a tax for general revenue purposes on the privilege of doing business as herein defined in the Borough of Shillington as follows:

A. *Rate and Basis of Tax.* The rate of the tax on each and every dollar of the whole or gross volume of business or rental transactions within the territorial limits of the Borough of Shillington shall be 1 ½ mills; 1½ mills shall mean \$1.50 per \$1,000 of gross volume of business; except that the rate of tax on each and every dollar of the whole or gross volume of business transacted by wholesale dealers or wholesale vendors within the territorial limits of the Borough of Shillington shall be 1 mill. All non-wholesale businesses of such wholesale dealers or wholesale vendors shall be taxed at the general rate of 1½ mills.

B. *Computation of Volume of Business.*

(1) Every person subject to the payment of the tax hereby imposed who has commenced his business prior to the full calendar year preceding the tax year shall compute his annual estimated gross amount of business transacted by him during said immediately preceding full calendar year.

(2) Every person subject to the payment of the tax hereby imposed who has commenced or who commences his business prior to the beginning of the tax year but after the beginning of the full calendar year immediately preceding the tax year, shall compute his estimated annual gross volume of business for the tax year upon which the gross volume of business transacted by him during said prior calendar year, taking the monthly average during said period and multiplying the same by twelve. In the event that he shall be in business fewer than 90 days in the preceding calendar year, he shall be permitted to use sufficient days in the calendar year in which the tax year begins to equal 90 successive days after commencement of business in order to compute a monthly average thereon, and to multiply the average by twelve.

(3) Every person subject to the payment of the tax hereby imposed who has commenced or commences his business subsequent to the beginning of the tax year, if there shall be less than 3 months from the commencement of his business to the end of the tax year, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the tax year; if there shall be more than 3 months from the commencement of his business to the end of the tax year he shall compute his estimated gross volume of business transacted by him during the period from the commencement of his business to the end of the tax year, taking the monthly average during the first 3 months of business and multiplying the same by the number of months from the commencement of business to the end of the tax year.

(4) Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal or itinerant by nature, shall compute his estimated gross amount of business to be transacted by him for the period said person engages in such temporary, seasonal or itinerant business within the Borough by a method to be determined by the Tax Administrator.

(5) The Tax Administrator is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Borough in any case where the taxpayer disputes the validity or amount of the Borough's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that no tax is due or that the Borough has been overpaid, the

amount of the payment or 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 other courts of competent jurisdiction outside of Berks County.

(6) Payments made under any mercantile license tax ordinance which may be in effect or hereafter adopted for business to which this tax is applicable shall be credited to this tax and vice versa.

C. *Persons, Business and Receipts Exempted.*

(1) *Persons and Business.* Persons employed for a wage or salary, nonprofit corporations or associations organized for religious, charitable or educational purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania and the business of any political subdivision, or of any municipal authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this Part.

(2) No such tax shall be assessed and collected on a privilege, transaction, subject, or occupation which is subject to a State tax or license fee, and which tax or license fee has been held by the Courts of Pennsylvania to be the basis for exemption from the imposition of a business privilege tax by a municipality.

(3) *Utilities.* No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission; or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.

(4) *State Tax on Tangible Property.* No such tax shall be assessed and collected on the privilege of employing or using any tangible property which is subject to a State tax except on sales of admission to places of amusement or on sales or other transfers of title or possession of property.

(5) *Production and Manufacture.* No such tax shall be assessed and collected on goods, articles, and products, or on by-products of manufacture, or on minerals, timber, natural resources, and farm products, manufactured, produced, or grown in the Borough of Shillington or on the preparation or processing thereof for use or market, or on any privilege, act or transaction relating to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources or farm products, by manufacturers, by producers, and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading, unloading or dumping or storage of such goods, articles, products or byproducts.

D. *Determination of Gross or Whole Volume of Business.* Gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made, rentals and/or services rendered, subject only to the following allowable deductions and exemptions:

(1) The dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as trade-in or as part payment for other goods, wares or merchandise, except to the extent that the resale price exceeds the trade-in allowance.

(2) Refunds, credits, or allowances given by a taxpayer to a purchaser on account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned.

(3) Any commission paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker.

(4) Bad debts, where the deduction is also taken in the same year for Federal income taxation purposes.

(5) Taxes collected as agent for the United States of America, Commonwealth of Pennsylvania or the Borough of Shillington.

E. *Partial Exemptions.* Where gross or whole volume of business in its entirety cannot be subjected to the tax imposed by this Part by reason of the provisions of the Constitution of the United States or any other provision of law, the Council of the Borough of Shillington shall establish rules and regulations and methods of allocation and evaluation so that only that part of the gross or whole volume of business which is properly attributable and allowable to doing business in the Borough shall be taxed hereunder.

F. *Rate When Same Tax is Imposed by Two Taxing Bodies.* If any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act, 1965, December 31, P.L. 1257, and its amendments, to the Borough and one or more political subdivisions of the State, then and in that event the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but in no event, shall the combined taxes of said subdivisions exceed a maximum rate of tax as fixed by the said Enabling Act permitting the imposition of such taxes.

G. *Records.* The taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep books and records of his business so as to show clearly, accurately and separately the amount of such sales and services as are excluded from the tax and the amounts of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided.

(Ord. 733, 12/8/1983, §3)

§24-304. Returns.

1. Every return shall be made upon a form furnished by the Tax Administrator. 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 on or before January 1 of the full calendar year immediately preceding the beginning of any tax year shall on or before the fifteenth day of February of the tax year file with the Tax Administrator a return setting forth his name, his business, 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.

3. Every person subject to the tax imposed by this Part who has commenced his business before the beginning of the tax year but after January 1 of the full calendar year immediately preceding the beginning of the tax year shall on or before the fifteenth day of February of the tax year file with the Tax Administrator a return setting forth his name, his business, business address, and such other information as may be necessary in arriving at the estimated gross amount of business transacted by him as calculated under §24-303.B(2) hereof and the amount of tax due, provided 100 days of the commencement of his business.

4. 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 at the time application is made for the business privilege license file a return with the Tax Administrator setting forth his name, his business, business address and such information as may be necessary in arriving at the estimated gross amount of business to be transacted by him as calculated in accordance with §24-303.B(4).

5. Any person going out of, or ceasing to do business shall, within 7 days from the date of ceasing to do business, file a return showing the actual gross volume of business conducted and done by such person during that tax year in which said person ceased doing business, and pay the tax due as computed thereon at the rate herein provided for at the time of filing said return. If such tax has been previously paid based upon estimated gross receipts, the taxpayer shall be entitled to a refund, without interest, of any excess tax paid for the tax year in which business was terminated.

6. *Payment of Tax and Penalties for Late Payment.* The business privilege tax levied pursuant to this Part shall be due and payable on the date on which the taxpayer is required to file a return as set forth above. If the tax is paid within 2 months after the due date a discount of 2% shall be allowed. All taxpayers who shall fail to pay said tax for 4 months after due date, shall be charged a penalty of 10% plus an additional 1½% per month or fractional part of a month, commencing with the penalty period, until said tax is paid.

7. *Receipt.* The Tax Administrator shall, upon payment to him of the business privilege tax, give the person paying the same, receipt therefore.

(Ord. 733, 12/8/1983, §4)

§24-305. License.

After the effective date of this Part, any person desiring to conduct, or to continue to conduct any business, as herein defined, within the Borough of Shillington shall file with the Tax Administrator an application for a business privilege license and shall pay a fee for the initial license and for each renewal thereof in such amounts as may be established from time to time by resolution of Borough Council.

(Ord. 733, 12/8/1983, §5, as amended by Ord. 1025, 10/14/2004)

§24-306. Posting.

The license issued shall be conspicuously posted in the place of business for which the said license is issued, and shall remain in effect for the license year or fraction of year for which said license was issued. In cases where more than one place of business

is conducted, a separate license shall be issued for each place of business. Any taxpayer who is in default in payment of tax due hereunder shall be refused a license until such tax is paid in full.

(*Ord. 733, 12/8/1983, §6*)

§24-307. Penalty.

Any person who shall conduct, transact or engage in any of the businesses subject to the tax imposed by this Part, without having first secured a business privilege license for the year, or any person who shall fail to file a tax return as required by the provisions of this Part, or any person who shall willfully file a false return, shall, upon conviction be sentenced to pay a fine not to exceed the sum of \$600 for any one offense, recoverable with costs, and in default of payment thereof, to imprisonment for a term not exceeding 30 days, if the amount of said fine and costs shall not be paid.

(*Ord. 733, 12/8/1983, §7; as amended by Ord. 1025, 10/14/2004*)

§24-308. Continuing Offense.

Each day on which a person commits a violation of this Part may be considered as a separate offense and punishable as such as afore-provided.

(*Ord. 733, 12/8/1983, §8*)

§24-309. Duties of the Tax Administrator.

1. The Tax Administrator is charged with the duties of collecting and receiving the taxes, fines, and penalties imposed by this Part. It shall be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.

2. The Tax Administrator of the Borough of Shillington may prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination and collection 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 Administrator is charged with enforcing the provisions of this Part and any rules and/or regulations promulgated pursuant hereto.

3. In the event the person to be assessed neglects or refuses to make a return, then in such case the Tax Administrator or his duly appointed deputies shall assess said person or persons on such an amount of whole or gross volume of business as the said Tax Administrator or his duly appointed deputies shall give the parties assessed a notice in which shall be stated the trade, business, occupation or class, and the amount of the business privilege tax imposed or levied.

4. The taxpayer shall maintain such records and books of account as will enable him to make a true and accurate return in accordance with the provisions of the Part. Such accounts and records must disclose in detail the gross receipts and other data pertaining to the taxpayer's gross volume of business, and must be sufficiently complete to enable the Tax Administrator or his deputies to verify all transactions. The Tax Administrator or his deputies are hereby authorized to examine the books, papers and records of any person or persons subject to or supposed to be subject to the tax imposed

by this Part, in order to verify the accuracy of the return made, or if no return was made, ascertain the tax due.

5. Any person aggrieved by any decision of the Tax Administrator shall have the right to appeal to the Court of Common Pleas, as provided by law.

(Ord. 733, 12/8/1983, §9)

§24-310. Confidential Nature of Returns, Etc.

Any information gained by the Tax Administrator or any other official, agent or employee of the Borough, 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.

(Ord. 733, 12/8/1983, §10)

§24-311. Suit on Collection and Penalty.

1. The Tax Administrator or his duly appointed deputies shall have the power in the name of the Borough to institute proceedings against any and all persons who violate the provisions of this Part.

2. If for any reason the tax is not paid when due and 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. 733, 12/8/1983, §11)

Part 4**Realty Transfer Tax****§24-401. Short Title.**

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

(*Ord. 817, 12/8/1988, §1*)

§24-402. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Borough of Shillington, 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. 817, 12/8/1988, §2*)

§24-403. 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.

Document - Any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. “Document” shall also include a declaration of acquisition required to be presented for recording under §24-402 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 game birds, fish, cats, dogs or pets of 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 or 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 the Borough of Shillington, 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; or

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

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

Value -

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 therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part 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 the case of a gift, sale by execution upon a judgment or upon the foreclosure or 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 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 subsections .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 the 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. 817, 12/8/1988, §3)

§24-404. Imposition of Tax; Interest.

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf a document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder or other designee, whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.

3. It is the intent of this Part that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §6901 *et seq.*, so that if any other political subdivision shall impose or hereafter shall impose such tax on the same

person or transfer then the tax levied by the Borough of Shillington under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate and such one-half rate shall become effective without any action on the part of the Borough of Shillington, provided, however, that the Borough of Shillington and any other political subdivision which impose such tax on the same person or transfer may agree that instead of limiting their respective rates to one-half of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the "Local Tax Enabling Act."

4. 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. 817, 12/8/1988, §4*)

§24-405. Exempt Parties.

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

(*Ord. 817, 12/8/1988, §5*)

§24-406. Excluded Transactions.

1. The tax imposed by §24-404 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 proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments, provided said reconveyance is made within 1 year from the date of condemnation.

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

C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at Sheriff sale or Tax Claim Bureau sale.

D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.

E. A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by 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 child, between 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 Part. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this subsection.

L. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.

M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than 2 years.

N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.

O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if: (1) the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conservation, energy production, pollution control, warehousing or agriculture; and

(2) the agency or authority has the full ownership interest in the real estate transferred.

P. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.

Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.

R. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1954, (68A Stat. 3, 26 U.S.C. §501(c)(3) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.

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

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

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

2. In order to exercise any exclusion provided in this Section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this Part.

(*Ord. 817, 12/8/1988, §6*)

§24-407. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in §24-406, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof, are fully taxable. For the purposes of this Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(*Ord. 817, 12/8/1988, §7*)

§24-408. Acquired Company.

1. A real estate company is an acquired company, upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% 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 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. 817, 12/8/1988, §8*)

§24-409. 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 of tax due, no refund or carry-over credit shall be allowed.

(*Ord. 817, 12/8/19.88, §9*)

§24-410. Extension of Lease.

In determining the terms 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. 817, 12/8/1988, §10*)

§24-411. 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 or costs of the sale and of the writ upon which the sale is made except the State realty transfer tax, and the Sheriff or other officer conducting said sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

(*Ord. 817, 12/8/1988, §11*)

§24-412. 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 Borough of Shillington based on a re-determination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Borough of Shillington.

2. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

3. On or before the tenth of each month, the recorder shall pay over to Borough of Shillington all local realty transfer taxes collected, less 2% for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2% commission shall be paid to the County.

4. Upon a determination 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. 817, 12/8/1988, §13*)

§24-413. Statement of Value.

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

(*Ord. 817, 12/8/1988, §14*)

§24-414. Civil Penalties.

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

2. In the case of failure to record a declaration required under this part on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than 1 month, with an additional 5% for each additional month of fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

(*Ord. 817, 12/8/1988, §15*)

§24-415. 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 the Borough of Shillington, 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 Berks 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. 817, 12/8/1988, §15*)

§24-416. 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. 817, 12/8/1988, §16*)

§24-417. Regulations.

The Recorder of Deeds of Berks County 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. 817, 12/8/1988, §17; as amended by Ord. 1025, 10/14/2004*)

Part 5**Occupation Assessment Tax****§24-501. Definitions.**

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

Borough - the Borough of Shillington, Berks County, Pennsylvania.

Individual - any person, male or female, who attains or is over the age of 18 years after the effective date of this Part, and is engaged in any occupation, trade or profession of any nature, type or kind whatsoever, resides within the corporate limits of the Borough, whether in the employ of another or self-employed during any fiscal year.

Occupation - any trade, profession, business, or undertaking of any type, kind or character, including services, domestic or other, carried on or performed either within the corporate limits of the Borough or outside the corporate limits of the Borough, for which compensation is charged or received, whether by means of salary, wages, commissions or fees for services rendered.

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

Tax - the flat rate occupation tax levied by this Part.

Tax collector - the person or agency designated by the Borough to collect the tax.

Year - shall mean the calendar year beginning January 1 and ending December 31 of each year.

He, his or him - indicate the singular and plural number, as well as male, female and neuter gender.

Secretary - the Secretary of the Borough of Shillington under whose direction this tax shall be enforced.

(Ord. 877, 12/9/1993, §1)

§24-502. Levy.

For general revenue purposes, a tax is hereby levied upon individuals engaged in an occupation and residing within the corporate limits of the Borough during the year beginning January 1, 1994, and during each year thereafter. Each individual who is engaged in an occupation for any length of time during any year shall pay a flat rate in the amount of \$10 in accordance with the provisions of this Part. This tax is in addition to all other taxes of any kind or nature levied by the Borough.

(Ord. 877, 12/9/1993, §2)

§24-503. Collection of Tax.

1. *Payment.* Said tax shall be paid to the tax collector of the Borough of Shillington.

2. *Delinquency.* If said tax is not paid by the due date, hereinafter established, a penalty of 5% of the amount of the tax, together with interest computed at 6% per annum until paid, shall be added to the tax and collected.

3. *Refund to Certain Individuals.* If an individual engaging in an occupation, as is defined in this ordinance, received \$1,000 or less gross income in any 1 year from an occupation or occupations, the tax, following payment, may be refunded upon written application addressed to the tax collector and accompanied by any of the following:

A. Information return for U.S. income tax purposes,

B. A copy of current year U.S. income tax return,

C. A certificate from the individual's employer or employers certifying that the individual's gross income was less than \$1,000 when said certificate is accompanied by the individual's affidavit that the attached receipts or certificate of payment represents the total gross income received by him for the year. The tax collector shall be entitled to grant a refund up to February 1 of the current year.

4. *Due Date.*

A. Each resident shall pay the said tax to the tax collector on or before July 1st of each year.

B. If said tax is paid on or before April 30, the individual shall receive a 2% discount on the flat rate tax, i.e., a tax of \$9.80.

5. *Administration of Tax.*

A. It shall be the duty of the tax collector to accept and receive payments of this tax and to keep a record thereof, showing the amount received by him from each employee or self-employed person, together with the date the tax was received.

B. The tax collector is hereby charged with the administration and enforcement of this Part and is hereby charged and empowered to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including 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 tax collector shall have the right to appeal to the Court of Common Pleas of Berks County as in other cases provided.

C. The Borough Secretary is hereby authorized to examine the books and payroll records of any employer to ascertain the tax due. Each employer is hereby directed and required to give the Borough Secretary the means, facilities and opportunity for such examination.

6. *Suits for Collection.*

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

B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of said tax calculated beginning with the due date of said tax and a penalty of 5% shall be added to the flat rate of said tax for non-payment thereof.

Where suit is brought for recovery of this tax, the individual liable therefor shall, in addition, be responsible for the costs of collection.

(Ord. 877, 12/9/1993, §3)

Part 6**Local Services Tax****§24-601. Definitions.**

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

Collector - the person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.

DCED - the Department of Community and Economic Development of the Commonwealth of Pennsylvania.

Earned income - compensation as this term is defined in Section 13[relating to earned income taxes] of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257, §13, as amended, 53 P.S. §6913, as amended.

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

He, his or him - indicates the singular and plural number, as well as male, female and neuter genders.

Individual - any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.

Net profits - the net income from the operation of a business, profession, or other activity, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1251, §13, as amended, 53 P.S. §6913, as amended.

Occupation - any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of the political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.

Political subdivision - the area within the corporate limits of the Borough of Shillington.

Tax - the local services tax at the rate fixed in §24-602 of this Part.

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

(Ord. 1077, 12/13/2007, §1)

§24-602. Levy of Tax.

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008; upon the privilege of engaging in an occupation with a primary place of employment within the Borough of Shillington during the tax year.

Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$52, assessed on a pro rata basis, in accordance with the provisions of this Part. This tax may be used solely for the following purposes as the same may be allocated by the Borough Council of the Borough of Shillington from time to time: (A) emergency services, which shall include emergency medical services, police services and/or fire services; (B) road construction and/or maintenance; (C) reduction of property taxes; or (D) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S., Ch 85, Subch. F (relating to homestead property exclusion). The political subdivision shall use no less than 25% of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed.

(Ord. 1077, 12/13/2007, §1)

§24-603. Exemption and Refunds.

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

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

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

2. *Procedure to Claim Exemption.*

A. A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than \$12,000 in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt as required by paragraph .B, the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption

certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.

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

C. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under paragraph .B, the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under paragraph .B, a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this paragraph is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this Part.

D. Except as provided in paragraph .B, it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

3. *Refunds.* The Borough of Shillington, in consultation with the collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The Borough of Shillington or the collector shall determine eligibility for exemption and provide refunds to exempt persons.

(Ord. 1077, 12/13/2007, §1)

§24-604. Duty of Employers to Collect.

1. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of

his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.

2. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation except as provided in subsection .4 of this Section. For purposes of this subsection, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.

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

4. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within 2 weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

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

6. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of subsection .2 of §24-603 of this Part and this Section and remits the amount so withheld in accordance with this Part.

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

(Ord. 1077, 12/13/2007, §1)

§24-605. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided

hereafter in this Part, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

(*Ord. 1077, 12/13/2007, §1*)

§24-606. Dates for Determining Tax Liability and Payment.

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the collector on or before the thirtieth day following the end of each calendar quarter of each such tax year.

(*Ord. 1077, 12/13/2007, §1*)

§24-607. Self-employed Individuals.

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this Part and pay the pro rata portion of the tax due to the collector on or before the thirtieth day following the end of each quarter.

(*Ord. 1077, 12/13/2007, §1*)

§24-608. Individuals Engaged in More than One Occupation or Employed in More than One Political Subdivision.

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

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

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

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

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

(*Ord. 1077, 12/13/2007, §1*)

§24-609. Nonresidents Subject to Tax.

All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision 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 political subdivision and an employee of a nonresidential

employer may, for the purpose of this Part, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

(*Ord. 1077, 12/13/2007, §1*)

§24-610. Administration of Tax.

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

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

3. The 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. 1077, 12/13/2007, §1*)

§24-611. Suits for Collection.

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

2. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefore shall, in addition, be responsible and liable for the cost of collection.

(*Ord. 1077, 12/13/2007, §1*)

§24-612. Violations and Penalties.

Whoever makes any false or untrue statement on any return required by this Part, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this Part shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty

herein prescribed may be instituted against any person in charge of this business of any employer who shall have failed or who refuses to file a return required by this Part.

(*Ord. 1077, 12/13/2007, §1*)

§24-613. Interpretation.

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

2. If the tax hereby imposed 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 laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

(*Ord. 1077, 12/13/2007, §1*)

