

CHAPTER 24

TAXATION, SPECIAL

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PART 1

EARNED INCOME TAX

§ 24-101. Definitions.

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.

BUSINESS ENTITY - a sole proprietorship, corporation, joint-stock association or company, partnership, limited partnership, limited liability company, association, business trust, syndicate or other commercial professional activity organized under the laws of this Commonwealth or any other jurisdiction.

CLAIM - a written demand for payment made by a Tax Officer or Tax Collection District for income taxes collected by another Tax Officer or Tax Collection District.

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. The term shall include an entity which is classified as a corporation for Federal income tax purposes.

CURRENT YEAR - the calendar year for which the tax is levied.

DEPARTMENT - the Department of Community and Economic Development of the Commonwealth.

DOMICILE - the place where a person lives and has a permanent home and to which the person has the intention of returning whenever absent. Actual residence 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 voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce a person to adopt some other permanent home. In the case of a business, domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME - the compensation as required to be reported to or as determined by the Department of Revenue under § 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and rules and regulations promulgated under that section. Employee business expenses as reported to or determined by the Department of Revenue under Article III of the Tax Reform Code of 1971 shall constitute allowable deductions in determining earned income. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

EARNED INCOME AND NET PROFITS TAX - the tax levied by the Township on earned income and net profits.

EMPLOYER - person, business entity or other entity, employing one or more persons for a salary, wage, commission or other compensation. The term includes the Commonwealth, a political subdivision and an instrumentality or public authority of either. For purposes of penalties under this Part, the term includes a corporate officer.

INCOME TAX - except as set forth in § 511(b) of the Local Tax Enabling Act, P.L. 1257, Act 511 of 1965, as amended

(hereinafter the "LTEA"), 53 P.S. § 6924.511(b), an earned income and net profits tax, personal income tax or other tax that is assessed on the income of a taxpayer levied by the Township under the authority of this Act or any other Act.

LTEA - the Pennsylvania Local Tax Enabling Act, P.L. 1257, Act 511 of 1965, as amended.

NET PROFITS - the net income from the operation of a business, other than a corporation, as required to be reported to or as determined by the Department of Revenue under § 303 of the Act of March 4, 1971 (P.L. 6, No. 2), 72 P.S. § 7303, known as the "Tax Reform Code of 1971," and rules and regulations promulgated under that section. The term does not include income under any of the following paragraphs:

A. Income which:

- (1) Is not paid for services provided.
- (2) Is in the nature of earnings from an investment.

B. Income which represents:

- (1) Any gain on the sale of farm machinery.
- (2) Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes.
- (3) Any gain on the sale of other capital assets of a farm.

NONRESIDENT - a person or business domiciled outside the Township levying the tax.

NONRESIDENT TAX - an income tax levied by a municipality on a nonresident.

RESIDENT - a person or business domiciled in the political subdivision levying the tax.

RESIDENT TAX - an income tax levied by:

- A. A municipality on a resident of that municipality.
- B. A school district on a resident of that school district.

SUCCEEDING YEAR - the calendar year following the current year.

TAX COLLECTION COMMITTEE - the committee established to govern the Lamar Tax Collection District for the purpose of income collection. The term shall include a Joint Tax Collection Committee.

TAX COLLECTION DISTRICT - the Lamar Tax Collection District established under § 504 of the LTEA.

TAX OFFICER/TAX COLLECTOR - the agency engaged to administer and collect earned income taxes for Tax Collection Districts. Unless otherwise specifically provided, for purposes of the obligations of an employer, the term shall mean the Tax Officer for the Tax Collection District within which the employer is located, or if an employer maintains workplaces in more than one district, the Tax Officer for each such district with respect to employees principally employed therein.

TAX RECORDS - tax returns, supporting schedules, correspondence with auditors or taxpayers, account books and other documents, including electronic record, obtained or created by the Tax Officer to administer or collect a tax under this Part. The term includes documents required by § 509(e) of the LTEA, 53 P.S. § 6924.509(e). The term "electronic records" includes data and information inscribed on a tangible medium or stored in an electronic or other medium and which is retrievable in perceivable form.

TAXABLE INCOME - includes:

- A. In the case of an earned income and net profits tax, earned income and net profits.
- B. In the case of a personal income tax, income enumerated in § 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," 72 P.S. § 7303, as reported to and determined by the Department of Revenue, subject to correction for fraud, evasion or error, as finally determined by the Commonwealth.

TAXPAYER - a person or business required under this Part to file a return of an income tax or to pay an income tax.

WITHHOLDING TAX - an income tax levied by a political subdivision under the authority of this Part, or any other tax levied by a municipality or school district for which employer withholding may be required under this Part.

(Ord. 12-05-2011.01, 12/5/2011, Art. I)

§ 24-102. Imposition of Tax.

1. The total levied under this Part is a continuation of a tax previously described in the above-referenced whereas clauses. 1 The tax previously imposed and continued under this Part is a tax for general revenue purposes of 5 mills or ½% is hereby imposed on the following:

- A. Earned income, as defined by this Part, received by residents of the Township, on or after January 1, 2012.
- B. Earned income, as defined by this Part, received by nonresidents of the Township for work done or services performed or rendered in the Township on or after January 1, 2012.

C. Net profits, as defined by this Part, earned on or after January 1, 2012, of businesses, professions, and other activities conducted by residents of the Township.

D. Net profits, as defined by this Part, earned on or after January 1, 2012, on businesses, professions, and other activities conducted by nonresidents in the Township.

2. The tax levied under subsections .1.A and .1.B herein shall relate to and be imposed upon salaries, wages, commissions, and other compensation paid by an employer or on its behalf to any person who is employed by or renders services to him. The tax levied under subsections .1.C and .1.D herein shall relate to and be imposed on the net profits of any business, profession, or enterprise carried on by any person as owner or as proprietor, either individually or in association with some other person or persons.

(Ord. 12-05-2011.01, 12/5/2011, Art. I)

Notes

¹ Editor's Note: The whereas clauses are as follows:

"WHEREAS, the Township of Lamar (hereinafter referred to as the "Township") previously enacted its Ordinance No. 4-12-65, as amended (hereinafter the "Prior Ordinance"), imposing a tax at the rate of five (5) mills or one-half percent (½%) for General Revenue purposes on earned income and net profits; and

"WHEREAS, on July 2, 2008, the Pennsylvania Legislature enacted Public Law 197, Act No. 32 (hereinafter "Act 32"), which Act 32, inter alia, provided for the consolidated collection of local income taxes within a Tax Collection District established in each County under Section 504 of Act 32, P. S. § 6924.504, for Tax Years beginning not later than on and after January 1, 2012; and

"WHEREAS, the Township desires to re-enact, restate and amend, in its entirety, the Prior Ordinance relating to the imposition and collection of an earned income and net profits tax by the Township of Lamar in order to conform to the provisions of Act 32."

§ 24-103. Declaration and Payment of Tax

1. Application.

A. Income taxes shall be applicable to taxable income earned or received based on the method of accounting used by the taxpayer in the period beginning January 1 of the current year and ending December 31 of the current year, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed.

B. For a taxpayer whose fiscal year is not a calendar year, the Tax Officer shall establish deadlines for filing, reporting and payment of taxes that provide time periods equivalent to those provided for a calendar year taxpayer.

2. **Partial Domicile.** The taxable income subject to tax of a taxpayer who is domiciled in the Township for only a portion of the tax year shall be an amount equal to the taxpayer's taxable income multiplied by a fraction, the numerator of which is the number of calendar months during the tax year that the individual is domiciled in the Township and the denominator of which is 12. A taxpayer shall include in the numerator any calendar month during which the taxpayer is domiciled for more than half the calendar month. A day that a taxpayer's domicile changes shall be included as a day the individual is in the new domicile and not the old domicile. If the number of days in the calendar month in which the individual lived in the old and new domiciles are equal, the calendar month shall be included in calculating the number of months in the new domicile.

3. **Declaration and Payment.** Except as provided in subsection .1.B, taxpayers shall declare and pay income taxes as follows:

A. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Resident Tax Officer, a final return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the taxable income, the amount of tax paid, the amount of tax that has been withheld under § 512 of the LTEA, 53 P.S. § 6924.512, and the balance of tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final return, the taxpayer shall pay the Resident Tax Officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment. Every taxpayer is required to file a final return showing the amount of earned income received even if no payment is due and owing.

B. Every taxpayer making net profits shall, by April 15 of the current year, make and file with the Resident Tax Officer declaration of the taxpayer's estimated net profits during the period beginning January 1 and ending December 31 of the current year, and shall pay to the Resident Tax Officer in four equal quarterly installments, the tax due on the estimated net profits. The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.

C. Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration

required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the Resident Tax Officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.

D. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Resident Tax Officer a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due on the net profits and the total amount of tax paid. At the time of filing the final return, the taxpayer shall pay to the Resident Tax Officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated tax, elect to make and file with the Resident Tax Officer on or before January 31 of the succeeding year, the final return. Every taxpayer is required to file a return showing the amount of net profit earned or received even if no payment is due and owing.

E. The Department, in consultation with the Department of Revenue, shall provide by regulation for the filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration required under this subsection anticipates additional net profits not previously declared or has overestimated anticipated net profits.

F. Every taxpayer who discontinues business prior to December 31 of the current year, shall, within 30 days after the discontinuance of business, file a final return as required under this paragraph and pay the tax due.

G. Every taxpayer who receives any other taxable income not subject to withholding under § 512(3) of the LTEA, 53 P.S. § 6924.512(e), shall make and file with the Resident Tax Officer a quarterly return on or before April 15 of the current year, June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, setting forth the aggregate amount of taxable income not subject to withholding by the taxpayer during the 3-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to income tax, together with such other information as the Department may require. Every taxpayer filing a return shall, at the time of filing of the return, pay to the Resident Tax Officer the amount of income tax due. In accordance with the criteria established by the Department, the Tax Officer may waive the quarterly return and payment of the income tax and permit a taxpayer to file the receipt of taxable income on the taxpayer's annual return and pay the income tax due on or before April 15 of the succeeding year.

(Ord. 12-05-2011.01, 12/5/2011, Art. I)

§ 24-104. Withholding and Remittance

For taxable years commencing on and after January 1, 2012, income taxes shall be withheld, remitted and reported as follows:

A. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Tax Collection District which 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 Tax Officer the name and address of the employer and such other information as the Tax Officer may require.

B. An employer shall require each new employee to complete a certificate of residency form, which shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W4). An employer shall also require any employee who changes their address or domicile to complete a certificate of residency form. The certificate of residency form shall provide information to help identify the political subdivision where an employee lives and works. Forms of certificate of residency may be obtained by an employer from the Department upon the request by an employer.

C. Every employer having an office, factory, workshop, branch, warehouse or other place of business within a Tax Collection District that employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall, at the time of payment, deduct from the compensation due each employee employed at such place of business, the greater of the employee's resident tax or the employee's nonresident tax as released in the Official Register under § 511 of the LTEA, 53 P.S. § 6934.511.

D. Except as set forth in paragraph .E, within 30 days following the end of each calendar quarter, every employer shall file a quarterly return and pay the amount of income taxes deducted during the preceding calendar quarter to the Tax Officer for the place of employment of each employee. The form shall show the name, address and Social Security number of each employee, the compensation of the employee during the preceding 3-month period, the income tax deducted from the employee, the political subdivision imposing the income tax upon the employee, the total compensation of all employees during the preceding calendar quarter, the total income tax deducted from the employees and paid with the return and any other information prescribed by the Department.

E. Notwithstanding paragraph .D, the provisions of this paragraph shall apply if an employer has more than one place of employment in more than one Tax Collection District. Within 30 days following the last day of each month, the employer may file the return required by paragraph .D and pay the total amount of income taxes deducted from employees in all work locations during the preceding month to the Tax Officer for either the Tax Collection District in which the employer's payroll operations are located or as determined by the Department. The return and income taxes deducted shall be filed and paid electronically. The employer must file a notice of intention to file combined returns and make combined payments with the Tax Officer for each place of employment at least 1 month before filing its first combined return or making its first combined

payment. This paragraph shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.

F. Any employer who, for two of the preceding four quarterly periods, has failed to deduct the proper income tax, or any part of the income tax, or has failed to pay over the proper amount of income tax as required by paragraph .C to the Tax Collection District, may be required by the Tax Officer to file returns or pay the income tax monthly. In such cases, payments of income tax shall be made to the Tax Officer on or before the last day of the month succeeding the month for which the income tax was withheld.

G. On or before February 28 of the succeeding year, every employer shall file with the Tax Officer where income taxes have been deducted and remitted pursuant to paragraph .C:

(1) An annual return showing, for the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of compensation paid, the total amount of income tax deducted, the total amount of income tax paid to the Tax Officer and any other information prescribed by the Department.

(2) An individual withholding statement, which may be integrated with the Federal Wage and Tax Statement (Form W-2) 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 address and Social Security number, the amount of compensation paid to the employee during the period, the amount of income tax deducted, the amount of income tax paid to the Tax Officer, the numerical code prescribed by the Department representing the Tax Collection District where the payments required by paragraphs .D and .E were remitted and any other information required by the Department. Every employer shall furnish one copy of the individual withholding statement to the employee for whom it is filed.

H. Any employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file returns and withholding statements required under this Section and pay the income tax due.

I. Except as otherwise provided in § 511 of the LTEA, 53 P.S. § 6924.511, an employer who willfully or negligently fails or omits to make the deductions required by this subsection shall be liable for payment of income taxes which the employer was required to withhold to the extent that the income taxes have not been recovered from the employee. The failure of omission of any employer to make the deductions required by this Section shall not relieve any employee from the payment of the income tax or from complying with the requirements for filing of declaration and returns.

(Ord. 12-05-2011.01, 12/5/2011, Art. I)

§ 24-105. Exemptions and Credits.

1. No exemptions or credits based on age or income, or any other conditions are granted by this Part. Nothing in this Part is intended to preclude or inhibit any credit or exemption imposed by act of law or regulation.

2. Payments of tax on income due any State other than Pennsylvania, or to any political subdivision thereof, by residents thereof pursuant to any State or Local law, to the extent that such inform includes salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation or net profits of businesses, professions or other activities, but in such proportions as hereinafter set forth, shall be credited to and allowed as a deduction from the liability of such person for the tax imposed by this Part on salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation or net profits of business, professions or other activities, if residents of Lamar Township receives like credits and deductions of a similar degree from the tax on income imposed by the other State or political subdivision thereof.

Where a credit or deduction is allowable, it shall be allowed in proportion to the concurrent periods for which taxes are imposed by the other State or respective political subdivision, but not in excess of the amount paid for the concurrent period and not in excess of the local Pennsylvania tax liability. No other exemptions based on any other factor to include age or income level is granted by this Part. Nothing in this Part is intended to preclude or inhibit any credit or exemption imposed by act of law or regulation.

No credit or deduction shall be allowed against any tax on earned income imposed under authority of this Part to the extent the amount of credit or deduction takes from the same period by the taxpayer against any income tax imposed by the Commonwealth of Pennsylvania under § 314 of the Act of March 4, 1971 (P.L. 6, No. 2) known as the "Tax Reform Code of 1971," on account of taxes imposed on income by other States or by their political subdivisions.

3. Any nonresident who is otherwise subject to the earned income tax of Lamar Township is hereby exempted from the imposition, collection, and payment of this tax, provided the domicile of the nonresident taxpayer provides a like exemption from the imposition, collection and payment of an earned income tax to any resident of Lamar Township, Clinton County, Pennsylvania, who would otherwise be subject to an earned income tax in the domicile of that nonresident. No other exemption or credit based on any other factor to include age or income level is granted by this Part. Nothing in this Part is intended to preclude or inhibit any credit or exemption imposed by act of law or regulation.

(Ord. 12-05-2011.01, 12/5/2011, Art. I)

§ 24-106. Powers and Duties of the Tax Officer.

1. **Tax Collection.** The collection and administration of the tax provided for in this Part shall be performed by the Tax Officer appointed by the Tax Collection Committee. It shall be the duty of the Tax Officer:

A. To collect, reconcile, administer and enforce income taxes imposed on residents and nonresidents in the Township

included in the Tax Collection District.

B. To receive and distribute income taxes and to enforce withholding by employers located in the Tax Collection District.

C. To receive income taxes distributed by Tax Officers for other Tax Collection Districts.

D. To invest all income taxes in the custody of the Tax Officer in authorized investments, subject to the approval of the Tax Collection Committee. The Tax Officer shall observe the standard of care that would be observed by a prudent person dealing with property of another. For the purposes of this paragraph, the term "authorized investment" shall include those investments as provided in § 509(a) of the LTEA, 53 P.S. § 6924.509(a).

2. **Monthly Reports.** The Tax Officer shall, within 20 days after the end of each month, provide a written report, on forms prescribed by the Department, to the Secretary of the Tax Collection Committee and to the Secretary of the Township for which taxes were collected during the previous month. The report shall include a breakdown of all income taxes, income generated from investments under subsection .1.D, penalties, costs and other money received, collected, expended and distributed for each political subdivision served by the Tax Officer and of all money distributed to Tax Officers for other Tax Collection Districts.

3. **Overpayments.** A Tax Officer shall refund under 53 Pa.C.S. § 8425 (relating to refunds of overpayments) and § 8426 (relating to interest on overpayment), on petition of and proof by the taxpayer, income taxes paid in excess of income taxes rightfully due.

4. **Bonds.** Prior to initiating any official duties, each Tax Officer shall give and acknowledge a bond to the appointing Tax Collection Committee as provided in § 509(d) of the LTEA, 53 P.S. § 6924.509(d).

5. **Records.** It shall be the duty of the Tax Officer to keep a record showing the amount of income taxes received from each taxpayer or other Tax Officer, the date of receipt, the amount and date of all other monies received or distributed and any other information required by the Department. All tax records shall be the property of the Township and the Tax Collection District in which the taxes were collected. The Tax Collection District and Tax Officer shall retain all tax records as directed by the Tax Collection Committee and, when applicable, in accordance with Retention and Disposition Schedules established by the Local Government Records Committee of the Pennsylvania Historical and Museum Commission under 53 Pa.C.S., Ch. 13, Subch. F (relating to records). Tax records under this subsection may be retained electronically as permitted by law.

6. **Employer and Taxpayer Audits.**

A. In order to verify the accuracy of any income tax declaration or return, or if no declaration or return was filed, to ascertain the income tax due, the Tax Officer and the Tax Officer's designated employees may examine or audit the records pertaining to income taxes due of any of the following:

- (1) An employer.
- (2) A taxpayer.
- (3) A person whom the Tax Officer reasonably believes to be an employer or taxpayer.

B. The examination of audit conducted by the Tax Officer or the Tax Officer's designated employees shall conform to the requirements set forth in the Local Taxpayer's Bill of Rights, 53 Pa.C.S. § 8421 *et seq.*

C. Every employer or taxpayer or other person whom the Tax Officer reasonably believes to be an employer or taxpayer shall provide to the Tax Officer and the Tax Officer's designated employees the means, facilities and opportunity for the examination and investigation authorized under subsection .6.A.

D. For purposes of this subsection, the term "records" shall include any books, papers and relevant Federal or State tax returns and accompanying schedules, or supporting documentation for any income taxable under this Part.

7. **Exchange of Information.**

A. The Tax Officer shall ensure that the Tax Collection District enters into an agreement with the Department of Revenue for the exchange of information necessary for the collection of income taxes.

B. The Department of Revenue may enter into agreements with each Tax Collection District and shall establish procedures under which tax collection, filing and other taxpayer and locality information in its custody will be made available to Tax Officers for purposes of collection, reconciliation and enforcement no later than 1 year after the deadline for filing returns for the tax year in question.

8. **Actions for Collection of Income Taxes.** The Tax Officer may file an action in the name of the Township for the recovery of income taxes due to the Township and unpaid. Nothing in this subsection shall affect the authority of the Township to file an action in its own name for collection of income taxes under this Part. This subsection shall not be construed to limit a Tax Officer, a Tax Collection District, or the Township from recovering delinquent income taxes by any other means provided by this Part or by law. Actions for collection of income taxes shall be subject to the following:

A. Except as set forth in subsections .8.B and .8.D, an action brought to recover income taxes must be commenced within 3 years of the later of the date:

- (1) The income taxes are due.
- (2) The declaration or return has been filed.
- (3) Of a re-determination of compensation or net profits by the Department of Revenue.

B. If there is substantial understatement of income tax liability of 25% or more and there is no fraud, an action must be commenced within 6 years.

C. Except as set forth in subsection .8.D(2), (3) or (4), an action by a Tax Officer for recovery of an erroneous refund must be commenced as follows:

(1) Except as set forth in subsection .8.C(2), within 2 years after making the refund.

(2) If it appears that any part of the refund was induced by fraud or misrepresentation of material fact, within 5 years after making the refund.

D. There is no limitation of action if any of the following apply:

(1) A taxpayer fails to file a declaration or return required under this Part.

(2) An examination of a declaration or return or of other evidence in the possession of the Tax Officer relating to the declaration or return reveals a fraudulent evasion of income taxes.

(3) An employer has deducted income taxes under § 512 of the LTEA, 53 P.S. § 6924.512, and has failed to pay the amount deducted by the Tax Officer.

(4) An employer has intentionally failed to make deductions required by this Part.

9. Interest and Penalties.

A. Except as provided in subsection .9.B, if the income tax is not paid when due, interest at the rate the taxpayer is required to pay to the Commonwealth under § 806 of the Act of April 9, 1929 (P.L. 343, No. 176), known as the Fiscal Code, 72 P.S. § 806, on the amount of the income tax, and an additional penalty of 1% of the amount of the unpaid income tax for each month or fraction of a month during which the income tax remains unpaid shall be added and collected but the amount shall not exceed 15% in the aggregate. Where an action is brought for the recovery of the income tax, the taxpayer liable for the income tax shall, in addition, be liable for the costs of collection, interest and penalties.

B. The Department may establish conditions under which a Tax Officer, with the concurrence of the Tax Collection Committee, may abate interest or penalties that would otherwise be imposed for the non-reporting or under-reporting of income tax liabilities or for the non-payment of income taxes previously imposed and due if the taxpayer voluntarily files delinquent returns and pays the income taxes in full.

C. The provision of subsection .9.C shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under this Part, or prevent the commencement or further prosecution of any proceedings by the proper authorities for violations of this Part. No proceeding shall, however, be commenced on the basis of delinquent returns filed pursuant to subsection .8 if the returns are determined to be substantially true and correct and the income taxes are paid in full within the prescribed time.

10. Fines and Penalties for Violations

A. Any taxpayer who fails, neglects or refuses to make any declaration or return required by this Part, any employer who fails, neglects or refuses to register, keep or supply records or returns required by § 512 of the LTEA, 53 P.S. § 6924.512, or to pay the income tax deducted from employees, or fails, neglects or refuses to deduct or withhold the income tax from employees, any taxpayer or employer who refuses to permit the Tax Officer appointed by a Tax Collection Committee or an employee or agent of the Tax Officer to examine books, records and papers, and any taxpayer or employer who knowingly make any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of income in order to avoid the payment of income taxes shall, upon conviction thereof, be sentenced to pay a fine of not more than \$2,500 for each offense and reasonable accosts, and in default of payment of said fines and costs, to imprisonment for not more than 6 months.

B. Any employer required under this Part to collect, account for and distribute income taxes who willfully fails to collect or truthfully account for and distribute income taxes, commits a misdemeanor and shall upon conviction, be sentenced to pay a fine not exceeding \$25,000 or to imprisonment not exceeding 2 years, or both.

C. The penalties imposed under this subsection shall be in addition to any other costs and penalties imposed by this Part.

D. The failure of any person to obtain forms required or making the declaration or returns required by this Part shall not excuse the person from making the declaration or return.

11. **Costs.** The Tax Officer shall be entitled to impose and collect the reasonable costs incurred to provide notices of delinquency or to implement similar procedures utilized to collect delinquent taxes from a taxpayer as approved by the Tax Collection Committee. Reasonable costs collected may be retained by the Tax Officer. An itemized accounting of all costs collected shall be remitted to the Tax Collection Committee on an annual basis.

12. **Appeals and Tax Officer Actions.** A determination of the Tax Officer relating to the assessment, collection, refund, withholding, remittance or distribution of income taxes may be appealed to the Appeals Board established by the Tax Collection Committee by a taxpayer, employer, political subdivision or another Tax Collection District pursuant to the provisions of § 505(j) of Act 32, 53 P.S. § 6924.505(j). Pursuant to § 505(k) of Act 32, 53 P.S. § 6924.515(k), any dispute among the affected parties involving a 10% or greater deviation from taxes received in the previous tax year shall be subject to mandatory mediation in accordance with regulations and guidelines adopted by the Department. A dispute involving less than a 10% threshold may be subject of voluntary mediation in accordance with regulations and guidelines adopted by the Department.

13. **Confidentiality.**

A. **General Rule.** Any information gained by a Tax Officer or any employee or agent to a Tax Officer or of the Tax Collection Committee as a result of any declarations, returns, investigations, hearings or verifications shall be confidential tax information.

B. **Prohibited Conduct.** It shall be unlawful, except for official purposes or as provided by law, for the Commonwealth, the Township, Tax Collection Committee member, Tax Officer or employee or agent of a Tax Officer or Tax Collection Committee to do any of the following:

- (1) Divulge or make known confidential tax information.
- (2) Permit confidential tax information or a book containing an abstract or particulars of the abstract to be seen or examined by another person.
- (3) Print, publish or otherwise make known any confidential tax information.

C. **Penalties.** A person who violates subsection .13.B commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$2,500 or to imprisonment for not more than 1 year, or both. If the offender is a member of the Tax Collection Committee the member shall be removed from the Tax Collection Committee. If the offender is an employee of a Tax Collection Committee or the Township the employee shall be discharged from employment. The offender shall pay the costs of prosecution.

(Ord. 12-05-2011.01, 12/5/2011, Art. I)

§ 24-107. Compensation of Income Tax Officer.

The Tax Officer shall receive such compensation for his services and expenses as determined by the Tax Collection Committee. At the discretion of the Tax Collection Committee, the Tax Officer may be permitted to withhold the amount of the Tax Officer's compensation from income taxes collected if the monthly reports required by § 509(b) of the LTEA, submitted by the Tax Officer, include an accounting for all compensation withheld.

(Ord. 12-05-2011.01, 12/5/2011, Art. I)

§ 24-108. Applicability.

The tax imposed by this Part shall not apply:

A. To any person as to whom it is beyond the legal power of the Township to impose the tax herein provided under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.

B. To institutions or organizations operated for public, religious, educational, or charitable purposes, to institutions or organizations not organized and operated for private profit, or to trusts and foundations established for any of the said purposes.

This Section shall not be construed to exempt any person who is an employer from the duty of collecting the tax from his employees and paying the amount collected to the Tax Officer under the provisions of § 24-104 of this Part.

(Ord. 12-05-2011.01, 12/5/2011, Art. I)

§ 24-109. Effective Date, Repealer, Conflict.

1. Nothing contained herein shall be considered to repeal by implication or otherwise the provisions of any earned income and net profits tax ordinance(s) previously enacted as it may apply to earned income and net profits of taxpayers prior to the effective date of this Part, which shall remain in full force and effect with respect to such earned income and net profits.

2. Subject to valid enactment of this Part without appeal, all provisions of any prior ordinance or parts thereof inconsistent herewith are hereby modified, amended and repealed by the provisions of this Part which shall thereafter govern the taxation of such earned income and net profits.

(Ord. 12-05-2011.01, 12/5/2011, Art. I)

PART 2

LOCAL SERVICES TAX

§ 24-201. Incorporation of Statute.

The provisions of § 6924.301 of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 53 P.S. § 6924.301, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, are incorporated herein by reference thereto; except to the extent that options are provided in said § 6924.301, this Part designates the options selected, and except as and where hereinafter specifically provided otherwise.

(Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-202. Definitions.

As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

COMBINED RATE - the aggregate annual rate of the local services tax levied by a school district and a municipality located in whole or in part within the school district.

COMPENSATION - salaries, wages, commissions, tips, bonuses, fees, gross receipts or any other earned income.

EMPLOYER - any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency, or any other body engaged in business or situated in the Township of Lamar, Clinton County, Pennsylvania, employing one or more employees engaged in any occupation.

OCCUPATION - any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, for which monetary compensation is received or charged.

TAX ADMINISTRATOR - the employee, agent, appointed tax collector, elected tax collector, Tax Collection Agency or other person to whom the Supervisors of the Township of Lamar has assigned or delegated responsibility for the audits, assessment, determination or administration of an eligible tax. Unless and until modified by future resolution, the Keystone Central School District Tax Office (KCSD Tax Office) is hereby designated to be the tax administrator of the local services tax.

TAXPAYER - any natural person liable for the tax levied by this Part.

(Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-203. Imposition of Tax.

A tax for the provision of police services, emergency services and road construction and/ or maintenance for the calendar year 2012 and each successive year thereafter shall be imposed on each resident as follows:

A. **General Rule.** Except as hereinafter provided, every employee shall pay the sum of \$52 for the calendar year 2012 and each successive year thereafter.

B. **Low-Income Exemption.** Every employee of the Township of Lamar whose total earned income and net profits from all sources is less than \$12,000 per annum shall be exempt from the local services tax herein imposed.

C. **Military Exemption.** There shall be exempt from the imposition of the local services tax members of a reserve component of the Armed Forces called to duty and honorably discharged veterans who served in any war or armed conflict who are blind, paraplegic, or a double or quadruple amputee as a result of military service or who are 100% disabled from a service-connected disability.

(Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-204. Duty of Employers.

Except as herein provided, each employer within the Township of Lamar, as well as those employers situated outside the Township of Lamar, but who engage in business within the Township, is hereby charged with the duty of collection from each of his employees engaged by him and performing for him within the Township of Lamar the said tax of \$52 per annum and making a return and payment thereof to the KCSD Tax Office. Further, except as herein provided, each employer is hereby authorized to deduct this tax from each employee in his employ, whether said employee is paid by salary, wages, or commission.

(Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-205. Situs of Tax.

1. **Combined Rate Cases.** With respect to a person subject to the local services tax at a combined rate, 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.

2. **Concurrent Employment.** 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. The political subdivision in which a person maintains his/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.

(Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-206. Up-Front Exemption/Concurrent Employment

In the case of concurrent employment, an employer shall refrain from withholding the local services 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 local services 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. A uniform employee statement form shall be furnished by the Secretary/Treasurer of the Township of Lamar.

(Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-207. Assessment and Installment Collection

A person subject to the local services tax shall be assessed 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 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 one-hundredth of a dollar. Collection of the local services tax levied shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation.

(Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-208. Remittance.

Employers shall remit withheld local service taxes to the tax administrator 30 days after the end of each quarter of a calendar year.

(Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-209. Self-Employed Individuals.

Self-employed individuals shall prorate the local services tax on a quarterly basis as if their payroll period is a calendar quarter. Self-employed taxpayers shall pay the local services tax to the tax administrator 30 days after the end of each calendar quarter.

(Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-210. Returns.

Each employer shall prepare and file a return showing a computation of the local services tax on forms to be supplied to him by the KCSD Tax Office. The failure of any employer to deduct the tax shall not relieve the employee from the duty to file a return and pay the tax. Any employer who fails to deduct the tax as required by this Section, or who fails to pay such tax to the KCSD Tax Office, shall be liable for such tax in full as though the tax had originally been levied against such employer; provided, however, that 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. 12-05-2011.02, 12/5/2011, §II)

§ 24-211. Nonresident Taxpayers.

The local services tax and the provisions of this Part shall be applicable to both resident and nonresidence taxpayers who engage in an occupation within the Township of Lamar, Clinton County, Pennsylvania, subject to the collection claim priority provisions set forth herein.

(Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-212. Administration and Enforcement

The KCSD Tax Office shall collect and receive the taxes, interest, fines and penalties imposed by this Part, and shall maintain records showing the amounts received and the dates such amounts were received. The KCSD Tax Office shall prescribe and issue all forms necessary for the administration of the tax and may adopt and enforce regulations relating to any matter pertaining the administration of this Part. The KCSD Tax Office and agents designated by it may examine the records of any employer and/or supposed employer or of any taxpayer in order to ascertain the tax due or verify the accuracy of any return. Every employer or supposed employer and every taxpayer or supposed taxpayer shall give the

KCSD Tax Office and any agent designated by it all means, facilities and opportunity for the examination hereby authorized.

(Res. 03-2009, 12/14/2009; as amended by Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-213. Collection.

The KCDS Tax Office shall collect by suit or otherwise all taxes, interest, costs, fines and penalties due under this Part and unpaid. If for any reason, any tax is not paid when due, interest at the rate of 6% per year on the amount of unpaid taxes and an additional penalty of ½ of 1% of the amount of the unpaid tax, for each month or fraction of month during which the tax remains unpaid, shall be added and collected. Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection as well as for interest and penalties.

(Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-214. Refund Claims.

Refund claims for overpaid local services taxes for any calendar year shall be processed in accordance with the regulations adopted by the Township in accordance with the Local Taxpayer's Bill of Rights, 53 Pa.C.S. § 8421 *et seq.* Refunds made 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, whichever is later, shall not be subject to interest imposed under 53 Pa.C.S. § 8426 of the Local Taxpayer's Bill of Rights. The Township shall only provide refunds for amounts overpaid in a calendar year that exceed \$1.

(Ord. 12-05-2011.02, 12/5/2011, §II)

§ 24-215. Enforcement Remedies.

1. An employer or taxpayer who makes a false or untrue statement on any return required by this Part, or who refuses inspection of his records in his custody and control setting forth his employees subject to this tax, who fails or refuses to file a return required by this Part, or who violates any other provisions of this Part, shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township of Lamar, pay a judgment of not more than \$600 plus all court costs, including reasonable attorney fees incurred by the Township of Lamar as a result thereof. If the defendant neither pays nor timely appeals the judgment, the Township of Lamar may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues or each Section of this Part which shall be found to have been violated shall constitute a separate violation.

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

3. District justices shall have initial jurisdiction over proceedings brought under this Section.

(Ord. 12-05-2011.02, 12/5/2011, §II)