

CHAPTER 149

TAXATION

ARTICLE I

Realty Transfer Tax

- § 149-1. Short Title.
- § 149-2. Authority.
- § 149-3. Definitions.
- § 149-4. Imposition of tax; interest.
- § 149-5. Exempt parties.
- § 149-6. Excluded transactions.
- § 149-7. Documents relating to associations or corporations and members, partners, stockholders or shareholders thereof..
- § 149-8. Acquired company.
- § 149-9. Credits against tax.
- § 149-10. Extension of lease.
- § 149-11. Proceeds of judicial sale.
- § 149-12. Duties of Recorder of Deeds.
- § 149-13. Statement of value.
- § 149-14. Civil penalties.
- § 149-15. Lien.
- § 149-16. Enforcement.
- § 149-17. Regulations.
- § 149-18. Continuing effect.

ARTICLE II

Per Capita Tax

- § 149-19. Imposition of tax.
- § 149-20. Collection by Tax Collector.
- § 149-21. Bond of Collector.
- § 149-22. Warrant for collection.
- § 149-23. Expenses; compensation of Collector.
- § 149-24. Notice of tax due.

- § 149-25. Addition of names to tax duplicate; exemptions.
- § 149-26. Collection of taxes.
- § 149-27. Continuing effect.
- § 149-28. Penalty on unpaid tax.

ARTICLE III Earned Income Tax

- § 149-29. Definitions.
- § 149-30. Imposition of tax.
- § 149-30.1 Tenants of Real Property.
- § 149-31. Declaration and payment of tax.
- § 149-32. Collection at source.
- § 149-33. Powers and duties of Borough Tax Collector.
- § 149-34. Suit for collection of tax.
- § 149-35. Interest and penalties.
- § 149-36. Violations and penalties.
- § 149-37. Continuing effect.

ARTICLE IV Local Services Tax

- § 149-38. Short Title.
- § 149-39. Definitions.
- § 149-40. Levy of tax.
- § 149-41. Exemption and refunds.
- § 149-42. Duty of employers to collect.
- § 149-43. Returns.
- § 149-44. Dates for determining tax liability and payment.
- § 149-45. Self-employed individuals.
- § 149-46. Individuals engaged in more than one occupation or employed in more than one political subdivision.
- § 149-47. Nonresidents subject to tax.
- § 149-48. Administration of tax.
- § 149-49. Suits for Collections

§ 149-50. Violations and Penalties

§ 149-51. Interpretation.

[HISTORY: Adopted by the Bo rough Council of the Borough of South Greensburg. Art. I, 12-28-1989 as Ord. No. 90-2; Art. II, 12-28-1989 as Ord. No. 90-3; Art. III, 12-28-1989 as Ord. No. 90-4; Art. IV, 12-28-1989 as Ord. No. 90-5; Art. V, 12-28-1989 as Ord. No. 90-1, amended in its entirety 12-9-1991 by Ord. No. 92-1; Art. VI, 7-8-1991 as Ord. No. 91-4. Section 149-46 amended at time of adoption of Code; see Ch. 1, General Provisions Art. I. Amended sections 149-38 through 149-51 on 12-10-2007 by Ord. No. 2008-02. Other amendments noted where applicable.]

ARTICLE I

Realty Transfer Tax

[Adopted 12-28-1989 as Ord. No. 90-2]

§ 149-1. Short title.

This Article shall be known as the "Realty Transfer Tax Ordinance of the Borough of South Greensburg."

§ 149-2. 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 South Greensburg, 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.

§ 149-3. Definitions.

Unless otherwise expressly stated, the following terms shall have, for the purpose of this Article, the meanings herein indicated:

ASSOCIATION — A partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two (2) 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 thirty (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 this Article.

FAMILY FARM CORPORATION — A corporation of which at least seventy-five percent (75%) of its assets are devoted to the business of agriculture and at least seventy-five percent (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 or animals intended for use in sporting or recreational activities.
- C. Fur farming.
- D. Stockyard and slaughterhouse operations.
- E. Manufacturing or processing operations of any kind.

MEMBERS OF THE SAME FAMILY — Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood.

PERSON — Every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person," as applied to associations, shall include the responsible members or general partners thereof and, as applied to corporations, the officers thereof.

REAL-ESTATE--The-following:

- A. All lands, tenements or hereditaments within the Borough of South Greensburg, including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.
- 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, ninety percent (90%) or more of the ownership interest in which is held by thirty-five (35) or fewer persons and which:

- A. Derives sixty percent (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 ninety percent (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; or

- 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 thirty (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 of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer base calculations;
- C. In the case of an easement or other interest in real estate the value of which is not determinable under Subsection A or B, the actual monetary worth of such interest; or
- D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

§ 149-4. Imposition of tax; interest.

- A. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording shall be subject to pay for and in respect to the transaction or any part thereof a tax at the rate of one percent (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 thirty (30) days of acceptance of such document or within thirty (30) days of becoming an acquired company.
- B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Recorder of Deeds whereon the date of the payment of the tax, the amount of the tax and the signature of the collecting agent shall be set forth.

- C. It is the intent of this Article 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 South Greensburg under the authority of the Act shall, during the time such duplication of the tax exists except as hereinafter otherwise provided, be one-half ($\frac{1}{2}$) of the rate, and such one-half-rate shall become effective without any action on the part of the Borough of South Greensburg; provided, however, that the Borough of South Greensburg and any other political subdivision which imposes such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half ($\frac{1}{2}$) 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.
- D. 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.

§ 149-5. 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 Article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

§ 149-6. Excluded transactions.

- A. The tax imposed by § 149-4 shall not be imposed upon:
- (1) A transfer to the commonwealth or to any of its instrumentalities, agencies or political subdivisions by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments, provided that said reconveyance is made within one (1) year from the date of condemnation.
 - (2) A document which the Borough of South Greensburg is prohibited from taxing under the Constitution or statutes of the United States.
 - (3) 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.
 - (4) 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.
 - (5) A transfer or division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
 - (6) A transfer between husband and wife or between persons who were previously husband and wife who have since been divorced, provided that the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and 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 one (1) year shall be subject to tax as if the grantor were making such transfer.

- (7) 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.
- (8) 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 and all possible beneficiaries.
- (9) A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- (10) A transfer for no or nominal actual consideration from trustee to successor trustee.
- (11) A transfer for no or nominal actual consideration between principal and agent or straw party or 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 Article. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from or for the benefit of his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.
- (12) 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 Article.
- (13) 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 two (2) years.
- (14) 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 developmental agency or authority.
- (15) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture and the agency or authority has the full ownership interest in the real estate transferred.
- (16) 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.
- (17) 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.

- (18) A transfer to a conservancy which possesses a tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954 [68A Stat. 3, 26 U.S.C. S and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
- (19) 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 seventy-five percent (75%) of each class of the stock thereof.
- (20) A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
- (21) A transaction wherein the tax due is one dollar (\$1.) or less.
- (22) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

B. 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 Article.

§ 149-7. Documents relating to associations or corporations and members, partners, stockholders or shareholders thereof.

Except as otherwise provided in § 149-6, 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 Article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

§ 149-8. Acquired company.

- A. 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, ninety percent (90%) or more of the total ownership interest in the company within a period of three (3) years.
- B. 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 Article.
- C. Within thirty (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.

§ 149-9. Credits against tax.

- A. 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 tax due upon the transfer.
- B. 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.
- C. 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.
- D. 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.
- E. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed.

§ 149-10. Extension of lease.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

§ 149-11. Proceeds of judicial sale.

The tax herein imposed shall be fully paid and have priority out of the proceeds of 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

§ 149-12. Duties of Recorder of Deeds.

- A. 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 the Borough of South Greensburg based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania realty transfer tax, without compensation from the Borough of South Greensburg.
- B. In order to ascertain the amount of taxes due when the property is located in more than one (1) 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.

- C. On or before the 10th of each month, the Recorder shall pay over to the Borough of South Greensburg all local realty transfer taxes collected, less two percent (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 two-percent commission shall be paid to the county.
- D. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only when both the state and local amounts and a rerecording fee has been tendered.

§ 149-13. 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 Article. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this section 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 Article.

§ 149-14. Civil penalties.

- A. If any part of any underpayment of tax imposed by this Article is due to fraud, there shall be added to the tax an amount equal to fifty percent (50%) of the underpayment.
- B. In the case of failure to record a declaration required under this Article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax five percent (5%) of the amount of such tax if the failure is for not more than one (1) month, with an additional five percent (5%) for each additional month or fraction thereof during which such failure continues, not exceeding fifty percent (50%) in the aggregate.

§ 149-15. Lien.

The tax imposed by this Article shall become a lien upon the lands, tenements or hereditaments or any interest therein lying and being situated, wholly or in part, within the boundaries of the Borough of South Greensburg, 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 Article, said lien to begin at the time when the tax under this Article is due and payable and to continue until discharge 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 Westmoreland County in accordance with the provisions of the Municipal Claims and Tax Liens Act of 1923, 53 P.S. § 7101 et seq., its supplements and amendments.

§ 149-16. Enforcement.

All taxes imposed by this Article, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

§ 149-17. Regulations.

The Tax Collector of the Borough of South Greensburg is charged with enforcement and collection of the 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 Article.

§ 149-18. Continuing effect.

This Article shall become effective and repeal the prior Deed Transfer Tax Ordinance of the Borough of South Greensburg thirty (30) days from the date of its enactment and shall be regarded as a continuing tax and shall continue in force thereafter on a school and fiscal year basis without annual reenactment unless the rate of the tax is substantially changed.

ARTICLE II

Per Capita

[Adopted 12-28-1989 as Ord. No. 90-3]

§ 149-19. Imposition of tax.

A per capita tax of five dollars (\$5.) for general borough purposes is hereby levied and assessed under the authority of the Act of December 31, 1965, P.L. 1257, Section 1, as amended, and known as the "Local Enabling Act,"¹ and its amendments, upon each resident or inhabitant of the Borough of South Greensburg over the age of eighteen (18) years, which tax shall be in addition to all other taxes levied and assessed by said borough pursuant to any other laws of the Commonwealth of Pennsylvania. Persons age sixty-five (65) or over are exempt from payment of this per capita tax. Individuals with gross income from whatever source of less than three thousand two hundred dollars (\$3,200.) and a husband and wife whose gross income from whatever source is less than six thousand four hundred dollars (\$6,400.) are exempt from payment of this per capita tax.

§ 149-20. Collection by Tax Collector.

Such tax shall be collected by the duly elected or appointed Tax Collector for the Borough of South Greensburg in the same manner and at the same time as other borough taxes are collected, as provided by the Local Tax Enabling Act, as amended and supplemented.

§ 149-21. Bond of Collector.

The Tax Collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law for other borough taxes.

§ 149-22. Warrant for collection.

The entry of the per capita tax in the tax duplicate and the issuance of such duplicate to the Tax Collector shall constitute his warrant for the collection of the per capita tax hereby levied and assessed.

§ 149-23. Expenses; compensation of Collector.

The expense of collection and compensation of the Tax Collector shall be paid and allowed as provided in the Local Tax Enabling Act, as amended and supplemented² which compensation shall be the same as shall be fixed from time to time for the collection of other borough taxes.

§ 149-24. Notice of tax due.

The Tax Collector shall give notice to the taxpayers of the amount of per capita tax due under this Article at the same time and in the same manner as provided by the Local Tax Enabling Act, as amended and supplemented.

§ 149-25. Addition of names to tax duplicate; exemptions.

In case the Tax Collector shall at any time find within the borough any resident or inhabitant above the age of eighteen (18) years whose name does not appear upon the tax duplicate, he shall report the name of such person forthwith to the Assessor, who shall thereupon certify the same unto the Borough Council, which shall promptly certify the same to the Tax Collector reporting such name, whereupon the Tax Collector shall add such name and assessment of this per capita tax against such person to the duplicate of the Borough of South Greensburg and shall proceed to collect the same, unless said person is age sixty-five (65) or over or unless, in the case of any individual, his or her gross income from whatever source is less than three thousand two hundred dollars (\$3,200.) or, in the case of a husband and wife, their joint gross income from whatever source is less than six thousand four hundred dollars. (\$6,400.).

§ 149-26. Collection of taxes.

The Tax Collector shall give notice to the taxpayers, shall have the power to collect said taxes by distress, shall have the power and authority to demand and receive said tax from the employer of any person owing any delinquent per capita tax or whose wife owes any delinquent per capita tax, shall remit such taxes to the Borough Treasurer by separate statement at the same time as other taxes are remitted to the borough, shall allow discounts and add penalties of ten percent (10%), shall generally be subject to all the duties and shall have all the rights and authority conferred upon him by the Local Tax Enabling Act, as amended and supplemented. It is hereby declared to be the intent of the Borough Council in enacting this Article to confer upon the Tax Collector, in the collection of this per capita tax, all the powers, together with all the duties and obligations to the same extent and as fully provided for in the Local Tax Enabling Act, as amended and supplemented.

§ 149-27. Continuing effect.

This Article shall become effective on January 1, 1990, and shall continue in force on a calendar-year basis, without annual reenactment, unless the rate of tax is subsequently changed. Changes in rate shall become effective on the date specified in the ordinance.

§ 149-28. Penalty on unpaid tax.

A penalty of ten percent (10%) is hereby imposed upon any tax which remains unpaid from and after August 1 of each taxable year.

ARTICLE III

Earned Income Tax

[Adopted 12-28-1989 as Ord. No. 90-4]

§ 149-29. Definitions.

A. Definitions. As used in this Article, the following terms shall have the meanings indicated:

ASSOCIATION -- A partnership, limited partnership or any other unincorporated group of two (2) or more persons.

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

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

CURRENT YEAR — The calendar year for which the tax is levied.

DOMICILE — The place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual 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 him to adopt some other permanent home. In the case of businesses or associations, the "domicile" is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME — Salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or in property; not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement or arising under workmen's compensation acts, occupational disease acts and similar legislation, or payments commonly recognized as old age benefits, retirement pay or pensions paid to persons retired from service reaching a specific age or after a stated period of employment or payments commonly known as public assistance or unemployment compensation payments by any governmental agency or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs, including but not limited to programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.

EMPLOYER — A person, partnership, association, corporation, institution, governmental body or unit or agency or any other entity employing one (1) or more persons for a salary, wage, commission or other compensation.

INCOME TAX OFFICER or OFFICER — A person, public employee or private agency designated by the governing body to collect and administer the tax on earned income and net profits.

NET PROFITS — The net income from the operation of a business, profession or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession or other activity, but without deduction of taxes based on income.

NONRESIDENT — A person, partnership, association or other entity domiciled outside the Borough of South Greensburg.

OTHER ACTIVITIES — Investments in real or personal property of whatever nature or character.

PERSON or INDIVIDUAL — A natural person.

PRECEDING YEAR — The calendar year before the current year.

RESIDENT — A person, partnership, association or other entity domiciled in the Borough of South Greensburg.

SUCCEEDING YEAR -- The calendar year following the current year.

TAXPAYER -- A person, partnership, association or any other entity required hereunder to file a return of earned income or net profits or to pay a tax thereon.

- B. Word usage. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

§ 149-30. Imposition of tax.

- A. The following taxes are hereby imposed for general borough purposes:
- (1) One-half of one percent ($1/2$ of 1%) on all earned income earned on and after the first day of January 1990, by residents of the Borough of South Greensburg.
 - (2) One-half of one percent ($1/2$ of 1%) on all earned income earned on and after the first day of January 1990, by nonresidents of the Borough of South Greensburg for work done or services performed or rendered in the Borough of South Greensburg.
 - (3) One-half of one percent ($1/2$ of 1%) on all net profits of businesses, professions or other activities earned on and after the first day of January 1990, conducted by residents of the Borough of South Greensburg.
 - (4) One-half of one percent ($1/2$ of 1%) on all net profits of businesses, professions or other activities earned on or after the first day of January 1990, conducted in the Borough of South Greensburg by nonresidents of the Borough of South Greensburg.
- B. The taxes levied under this Article shall be applicable to earned income received and to net profits earned in the period beginning January 1 of the current year and ending December 31 of the current year or for taxpayer fiscal years beginning in the current year, except that taxes imposed for the first time shall become effective from the date specified in this Article 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 substantially changed. Changes in rate shall become effective on the date specified in this Article.
- C. Such taxes shall be levied with respect to the earned income or net profits earned during the calendar year for which the tax is levied; provided, however, that when the fiscal year of a business, profession or other activity differs from the calendar year, the tax shall be applicable to

the net profits of the fiscal year, but for the levies on net profits in the year 1990, the tax shall be applicable only to the portion of the net profits of the fiscal year 1990 as were earned on and after January 1, 1990.

- D. The Borough Tax Collector is hereby designated receiver of the taxes imposed by this Article. He shall collect and receive all such taxes, shall furnish a receipt for their payment and shall keep a record showing the amount received by him from each taxpayer under this Article and the date of such receipt. The Borough Solicitor is empowered to prescribe rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this Article. Such rules and regulations shall be inscribed by the Borough Tax Collector in a book for that purpose and open to the inspection of the public.

§ 149-30.1. Tenants of Real Property.

- A. Required information.

All persons, firms or corporations who own real property in the Borough of South Greensburg before September 11, 2006, shall notify the Borough Tax Collector of the Borough of South Greensburg on or before December 31, 2006, of the names and street addresses of all tenants occupying any real property owned by such person, firm, or corporation as a residence in the Borough of South Greensburg.

- B. Changes in tenancy.

All persons, firms or corporations who own real property in the Borough of South Greensburg after September 11, 2006, shall notify the Borough Tax Collector of the Borough of South Greensburg within fifteen (15) days of the date any residential tenant vacates any real property or any new residential tenant occupies real property in the Borough of South Greensburg owned by such person, firm or corporation, giving the name and street address of each such tenant vacating or newly occupying real property.

- C. Violations and penalties.

Any person, firm or corporation owning real property in the Borough of South Greensburg who fails or refuses to comply with the provisions of this Section, upon conviction, shall be sentenced to pay a fine of not more than six hundred (\$600.00) or be imprisoned for a period not exceeding ninety (90) days, or both such fine and imprisonment. Each day the violation continues shall be a separate offense.

§ 149-31. Declaration and payment of tax.

- A. Net profits.

(1) Every taxpayer making net profits shall, on or before April 15 of the current year, make and file with the Borough Tax Collector on a form prescribed or approved by the Borough Tax Collector a declaration of his estimated net profits during the period beginning January 1 and ending December 31 of the current year and pay to the Borough Tax Collector in four (4) equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration and the other installments on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively. In the event that the total of said four (4) quarterly installments of tax paid does not equal ninety percent (90%) of actual tax on actual net profits for the then-current year, the taxpayer shall be subject to interest and penalties as set forth in § 149-36 of this Article on the difference between the actual tax liability for the current year and the total of the installments of tax actually made for the current year, said interest and penalties to be applied against the underestimated portion of said estimated taxes; provided, however, that if the taxpayer has paid, in four (4) equal quarterly

installments on the due dates as above set forth, an amount equal to the prior year's tax, then it shall be deemed that there are no underestimated taxes and no interest and penalties will apply there against. **[Amended 12-11-1995 by Ord. No. 96-2]**

- (2) Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration hereinabove required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.
- (3) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Borough Tax Collector on a form prescribed or approved by the Borough Tax Collector a final return showing the amount of net profits earned during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the Borough Tax Collector 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 his estimated tax, elect to make and file with the officer on or before January 31 of the succeeding year the final return as hereinabove required.
- (4) The Borough Tax Collector is hereby authorized to provide by regulation for the making and 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 hereinabove required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.
- (5) Every taxpayer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

B. Earned income.

- (1) Annual earned income tax return. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Borough Tax Collector on a form prescribed or approved by the Borough Tax Collector a final return showing the amount of earned 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 thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
- (2) Earned income not subject to withholding. Every taxpayer who is employed for a salary, wage, commission or other compensation and who received any earned income not subject to the provisions relating to collection at source shall make and file with the Borough Tax Collector on a form prescribed by the Borough Tax Collector a quarterly return on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the three-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 the tax, together with such other information as the Borough Tax Collector may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the officer the amount of tax shown as due thereon.

§ 149-32. Collection at source.

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the Borough of South Greensburg imposing a tax on earned income or net profits within the Borough of South Greensburg who employs one (1) or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered shall, within fifteen (15) days after becoming an employer, register with the officer his name and address and such other information as the Borough Tax Collector may require.
- B. Withholding by employer.
 - (1) Every employer having an office, factory, workshop, branch, warehouse or other place of business who employs one (1) or more persons, other than domestic servants, for a salary, wage, commission or other compensation shall deduct at the time of payment thereof the tax imposed by this Article on the earned income due to his employee or employees and shall, on or before April 20 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, file a return and pay to the Borough Tax Collector the amount of taxes deducted during the preceding three-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. Such return, unless otherwise agreed upon between the Borough Tax Collector and employer, shall show the name and social security number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the total earned income of all such employees during such preceding three-month period and the total tax deducted therefrom and paid with the return.
 - (2) Any employer who for two (2) of the preceding four (4) quarterly periods has failed to deduct the proper tax or any part thereof or has failed to pay over the proper amount of tax to the Borough Tax Collector may be required by the Borough Tax Collector to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the Borough Tax Collector on or before the last day of the month succeeding the month for which the tax was withheld.
- C. On or before February 28 of the succeeding year, every employer shall file with the Borough Tax Collector:
 - (1) An annual return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to the Borough Tax Collector for the period beginning January 1 of the current year and ending December 31 of the current year.
 - (2) A return withholding statement for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted and the amount of tax paid to the Borough Tax Collector. Every employer shall furnish two (2) copies of the individual return to the employee for whom it is filed.
- D. Every employer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.
- E. Except as otherwise provided in § 149-36, every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.

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

§ 149-33. Powers and duties of Borough Tax Collector.

- A. It shall be the duty of the Borough Tax Collector to collect and receive the taxes, fines and penalties imposed by this Article. It shall also be his duty to keep a record showing the amount and the date of such receipt.
- B. The Borough Tax Collector is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Article, including provisions for the reexamination and correction of declarations and returns and of payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred, and to make refunds in case of overpayment for any period of time not to exceed six (6) years subsequent to the date of payment of the sum involved and to prescribe forms necessary for the administration of this Article. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution of Council for the Borough of South Greensburg. A copy of such rules and regulations currently in force shall be available for public inspection.
- C. The Borough Tax Collector shall refund, on petition of and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses to the extent that such expenses are not paid by the taxpayer's employer.
- D. The Borough Tax Collector and agents designated by him are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the Borough Tax Collector reasonably believes to be an employer or taxpayer in order to verify the accuracy of any declaration or return or, if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the Borough Tax Collector reasonably believes to be an employer or taxpayer is hereby directed and required to give to the Borough Tax Collector or to any agent designated by him the means, facilities and opportunity for such examination and investigations as are hereby authorized.
- E. Any information gained by the Borough Tax Collector, his agents or by any other official or agent of the taxing district, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Article, shall be confidential except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.
- F. The Borough Tax Collector is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

§ 149-34. Suit for collection of tax.

- A. The Borough Collector may sue in the name of the Borough of South Greensburg for the recovery of taxes due and unpaid under this Article.
- B. Any suit brought to recover the tax imposed by this Article shall be begun within three (3) years after such tax is due or within three (3) years after the declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

- (1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of this Article, there shall be no limitation.
 - (2) Where an examination of the declaration or return filed by any person or of other evidence relating to such declaration or return in the possession of the Borough Tax Collector reveals a fraudulent evasion of taxes, there shall be no limitation.
 - (3) In the case of substantial understatement of tax liability of twenty-five percent (25%) or more and no fraud, suit shall be begun within six (6) years.
 - (4) Where any person has deducted taxes under the provisions of this Article and has failed to pay the amounts so deducted to the Borough Collector or where any person has willfully failed or omitted to make the deductions required by this section, there shall be no limitation.
- C. This section shall not be construed to limit the Borough Tax Collector from recovering delinquent taxes by any other means provided by this Article.
- D. The Borough Tax Collector may sue for recovery of an erroneous refund, provided that such suit is begun two (2) years after making such refund, except that the suit may be brought within five (5) years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

§ 149-35. Interest and penalties. [Amended 12-17-1990 by Ord. No. 90-11]

- A. If, for any reason, the tax is not paid when due, interest at the rate of ten percent (10%) per annum on the amount of said tax and an additional penalty of one percent (1%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.
- B. In addition to interest and penalties as imposed under Subsection A above, there shall be imposed upon any employer who fails, neglects or refuses to timely remit to the Borough of South Greensburg the taxes deducted from its employees, a penalty computed at the rate of five percent (5%) on the amount of said withheld taxes for the first month in which said taxes were not remitted to the Borough of South Greensburg after the due date as herein provided, and five percent (5%) per month or any part of a month thereafter, with a maximum of twenty-five percent (25%).

§ 149-36. Violations and penalties.

- A. Any person who fails, neglects or refuses to make any declaration or return required by this Article, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees or fails, neglects or refuses to who refuses to permit the Borough Tax Collector or any agent designated by him to examine his books, records and papers and any person who knowingly makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Article shall, upon conviction thereof before

any Justice of the Peace, Alderman or Magistrate or court of competent jurisdiction in Westmoreland County, be sentenced to pay a fine of not more than five hundred dollars (\$500.) for each offense and costs and, in default of payment of said fine and costs, to be imprisoned for a period not exceeding thirty (30) days.

- B. Any person who divulges any information which is confidential under the provisions of this Article shall, upon conviction thereof before any Justice of the Peace, Alderman or Magistrate or court of competent jurisdiction, be sentenced to pay a fine of not more than five hundred dollars (\$500.) for each offense and costs and, in default of payment of said fines and costs, to be imprisoned for a period not exceeding thirty (30) days.
- C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Article.
- D. The failure of any person to receive or procure forms required for making the declaration or returns required by this Article shall not excuse him from making such declaration or return.

§ 149-37. Continuing effect.

This Article shall become effective on January 1, 1990, and shall continue in force on a calendar-year basis, without annual reenactment, unless the rate of tax is subsequently changed. Changes in rate shall become effective on the date specified in the ordinance.

ARTICLE IV
Occupation Privilege Tax
[Adopted 12-28-1989 as Ord. No. 90-5]

§ 149-38. Title.

This Ordinance Article IV shall be known and may be cited as "The Borough of South Greensburg Local Services Tax Ordinance."

§ 149-39. 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:

BOROUGH OF SOUTH GREENSBURG OR BOROUGH - The area within the corporate limits of the Borough of South Greensburg.

COLLECTOR - The person, public employee or private agency designated by the Borough of South Greensburg 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 §13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 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 Borough of South Greensburg.

NET PROFITS - The net income from the operation of a business, profession, or other activity, as this term is defined in §13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257 § 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, carried on or performed within the corporate limits of the Borough of South Greensburg for which compensation is charged or received, whether by means of salary, wages, commission or fees for services rendered.

TAX - The local services tax at the rate fixed in of this part.

TAX YEAR - The period from January 1 until December 31 in any year; a calendar year.

§ 149-40. 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 South Greensburg 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 from time to time: (1) emergency services, which shall include emergency medical services, police services and/or fire services; (2) road construction and/or maintenance; (3) reduction of property taxes; or (4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa. C.S. Ch. 85, Such. F (relating to homestead property exclusion). The Borough shall use no less than twenty-five percent 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 Borough of South Greensburg. The tax shall be no more than fifty-two dollars on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

§ 149-41. Exemption and refunds.

A. Exemption. Any person whose total earned income and net profits from all sources within the Borough is less than twelve thousand (\$12,000.00) dollars 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 the payment of the tax:

- (1) 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 double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent disability.

- (2) 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 subparagraph, "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.

B. Procedure to Claim Exemption.

- (1) A person seeking to claim an exemption from the local services tax shall annually file an exemption certificate with the Borough and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the Borough utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the Borough for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the Borough or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder for 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.
- (2) 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 Borough that the person has received earned income and net profits from all sources within the Borough equal to or in excess of twelve thousand dollars (\$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 Borough in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under clause (3).
- (3) 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 clause (2), 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 clause (2), 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 first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the Borough may pursue collection under this act.
- (4) Except as provided in clause (2), 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 a local services tax.

C. Refunds. The Borough Secretary, 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.¹ Refunds made within seventy-five days of a refund request or seventy-five 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 one dollar (\$1). The Borough Secretary or the Collector shall determine eligibility for refunds to exempt persons and provide refunds.

§ 149-42. Duty of employers to collect.

- A. Each employer within the Borough of South Greensburg, as well as those employers situated outside the Borough of South Greensburg but who engage in business within the Borough of South Greensburg, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the Borough of South Greensburg and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax from 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 Borough of South Greensburg.
- B. 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 combined 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 Paragraph D of this Section. For purposes of this paragraph, "combined rate" shall mean the aggregate annual rate of the tax levied by the school district and the Borough.
- C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
- D. 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 two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.
- E. The tax shall be no more than fifty-two dollars (\$52) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The Borough shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the Borough 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 Paragraph B of §149-41 of this part and this section and remits the amount so withheld in accordance with this Part.
- B. Employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.

§ 149-43. 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.

§149-44. 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.

§ 149-45. 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 Borough of South Greensburg 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.

§ 149-46. Individuals engaged in more than one occupation of employed in more than one political subdivision.

- A. 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:
- (1) First, the political subdivision in which a person maintains his or her principal office or is principally employed;
 - (2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
 - (3) 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.

§ 149-47. Nonresidents subject to tax.

All employers and self-employed individuals residing or having their places of business outside of the Borough of South Greensburg but who perform services of any type or kind or engage in any occupation

or profession within the Borough of South Greensburg 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 Borough of South Greensburg. Further, any individual engaged in an occupation within the Borough of South Greensburg 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 Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§ 149-48. Administration of tax.

- A. The Collector shall be appointed by resolution of the Borough Council. 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.
- B. The Collector is hereby charged with the administration and enforcement of this part and is hereby charged and empowered, subject to Borough Council 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 to the Court of Common Pleas of Westmoreland County as in other cases provided.
- C. 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.

§ 149-49. Suits for Collection

- A. In the event that any tax under this part remains due or unpaid 30 days after the 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 penalties.
- B. 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 therefor shall, in addition, be responsible and liable for the costs of collection.

ARTICLE VI

Real Estate Tax Certifications

[Adopted 7-8-1991 as Ord. No. 91-4]

§ 149-50. 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 cost 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 the business of any employer who shall have failed or who refuses to file a return required by this part.

§149-51. Interpretation.

- A. Nothing contained in this part shall be construed to empower the Borough of South Greensburg to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Borough under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
- B. 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.