

CODIFIED ORDINANCES OF WHITE OAK  
PART THREE - BUSINESS AND TAXATION CODE

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**ARTICLE 305**  
**Junk Dealers**

<b>305.01</b>	<b>License required.</b>	<b>305.06</b>	<b>Holding period.</b>
<b>305.02</b>	<b>Application for license.</b>	<b>305.07</b>	<b>Nuisance conditions prohibited.</b>
<b>305.03</b>	<b>Restrictions.</b>		
<b>305.04</b>	<b>Purchases from minors prohibited.</b>	<b>305.08</b>	<b>Revocation of license.</b>
		<b>305.99</b>	<b>Penalty.</b>
<b>305.05</b>	<b>Records; inspections.</b>		

CROSS REFERENCES

Peddlers and solicitors - see BUS. & TAX. Art. 313  
Business privilege tax - see BUS. & TAX. Art. 353

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**305.01 LICENSE REQUIRED.**

No person, firm or corporation shall use, exercise or carry on the trade or business of selling, buying and dealing in junk, scrapped automobiles or trucks, scrap iron, tin, lead, brass, copper, or other metals and other materials commonly termed as junk, within Borough limits without first having obtained a license from the Borough Secretary, for which license such person, firm or corporation shall pay to the Borough the sum of one hundred fifty dollars (\$150.00). Such license shall be renewed annually on the first day of each year.  
(Ord. 7. Passed 7-19-48.)

**305.02 APPLICATION FOR LICENSE.**

The Borough Secretary shall give and grant such a license to all proper persons, firms or corporations who may apply for the same to use, exercise and carry on the trade or business of buying, selling and dealing in junk, scrapped automobiles and trucks, scrap iron, tin, brass, copper, or other metals and other materials commonly termed as junk. Such license shall state the place or premises in which the license is to be carried on. The name of the dealer and the number of the license must be placed on the automobile, truck or wagon of all persons, firms and corporations licensed as aforesaid.

(Ord. 7. Passed 7-19-48.)

**305.03 RESTRICTIONS.**

No person, firm or corporation licensed as provided in this article shall by virtue of one license keep more than one place of business for the purpose of buying, selling and dealing in any of the articles and materials named in this article, nor shall he or they at any time buy, sell, or deal in such articles and goods in a place other than that for which such license is granted.

(Ord. 7. Passed 7-19-48.)

**305.04 PURCHASES FROM MINORS PROHIBITED.**

No person, firm, or corporation licensed under the provisions of this article shall receive or purchase from minors or unknown or irresponsible parties any scrapped automobiles or trucks, scrap iron, tin, lead, copper, or other metals and other materials commonly termed as junk. (Ord. 7. Passed 7-19-48.)

**305.05 RECORDS; INSPECTIONS.**

Every owner of a junk shop or yard shall provide and constantly keep a book, in which shall be fairly written down in the English language at the time of every purchase of any such material, a description of all articles so purchased and the date and hour of such purchase, and such books and all articles or junk purchased or handled by any junk dealer shall at all times be subject to the inspection of the Chief of Police and the various officers of the Borough.

(Ord. 7. Passed 7-19-48.)

**305.06 HOLDING PERIOD.**

All persons, firms, or corporations, so licensed shall keep and retain on their premises all of such articles or junk purchased or handled by them for a period of forty-eight hours and shall not disturb or reduce the same or alter the original form, shape, or condition until such period of forty-eight hours has elapsed.

(Ord. 7. Passed 7-19-48.)

**305.07 NUISANCE CONDITIONS PROHIBITED.**

All such junk yards and the materials therein contained or stored shall be maintained and kept in a neat and orderly manner and the junk yards shall be conducted and maintained in such a manner as not to create a public nuisance and not to be prejudicial to public health or safety, and if any such junk yards shall be so conducted as to create a public nuisance or to be prejudicial to the public health or safety, the Borough Secretary shall have and is hereby given the power to forthwith revoke the aforesaid license.

(Ord. 7. Passed 7-19-48.)

**305.08 REVOCATION OF LICENSE.**

If any person, firm or corporation, licensed as aforesaid shall violate any of the provisions of this article, or be convicted of receiving stolen goods, the Borough Secretary shall have the power to forthwith revoke the aforesaid license.

(Ord. 7. Passed 7-19-48.)

**305.99 PENALTY.**

Whoever violates any provision of this article shall be fined three hundred dollars (\$300.00) or sentenced for a period not exceeding thirty days.

(Ord. 3452. Passed 11-20-06.)



**ARTICLE 309**  
**Mechanical Amusement Devices**

<b>309.01</b>	<b>Definitions.</b>	<b>309.08</b>	<b>Expiration of license; renewal.</b>
<b>309.02</b>	<b>Licensing of amusement devices; gambling prohibited.</b>	<b>309.09</b>	<b>Transfer of license.</b>
<b>309.03</b>	<b>Application for amusement device license.</b>	<b>309.10</b>	<b>License suspension or revocation.</b>
<b>309.04</b>	<b>Number of devices.</b>	<b>309.11</b>	<b>Inspection.</b>
<b>309.05</b>	<b>Floor plan; placement of devices.</b>	<b>309.12</b>	<b>Appeals.</b>
<b>309.06</b>	<b>Compliance with zoning laws; location.</b>	<b>309.13</b>	<b>Effective date; grandfather clause.</b>
<b>309.07</b>	<b>Issuance of license; fee; display of license and decal.</b>	<b>309.99</b>	<b>Penalty.</b>

**CROSS REFERENCES**

Power to regulate amusements - see Borough Code Sec. 1202(30)  
(53 P.S. Sec. 46202(30))

**309.01 DEFINITIONS.**

The following words and phrases when used in this article shall have the meaning hereby ascribed to them, except in those instances where the context clearly indicates a different meaning.

- (a) "Amusement device" means any machine which, upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as electronic games, pin-ball machines, music boxes, juke boxes, skill ball, mechanical grab machines and all games, operations or transactions, similar thereto under whatever name they may be indicated. The term does not include vending machines in which there are not incorporated gaming or amusement features.
- (b) "Borough" means the Borough of White Oak, Pennsylvania.
- (c) "Net floor area" means the area of a premises proposed for the installation of licensed amusement devices and used in determining the maximum number of devices which can be installed under the terms of this article. Net floor area shall exclude office areas, storage areas, closets, stairwells and restroom facilities. (Ord. 2156. Passed 9-8-82.)

**309.02 LICENSING OF AMUSEMENT DEVICES; GAMBLING PROHIBITED.**

(a) No person, partnership, association or corporation shall display an amusement device for public patronage in the Borough without first having obtained a proper license from the Borough pursuant to the provisions of this article.

(b) Nothing in this article shall in anyway be construed to authorize, license or permit any gambling or gambling devices not permitted by State or local law. The display for patronage of any amusement device which permits the operator to receive a package of mints or other merchandise, or exhibiting definite combination of symbols entitling the operator to prizes or cash is hereby prohibited and the same is hereby declared a public nuisance. Amusement devices allowing the operator free plays are permitted if they otherwise comply with the provisions of this article and are not employed as gambling devices.

(Ord. 2156. Passed 9-8-82.)

**309.03 APPLICATION FOR AMUSEMENT DEVICE LICENSE.**

(a) Application for an amusement device license shall be made to the Borough Secretary on forms to be prescribed by the Secretary and shall state the following:

- (1) The name, address and occupation of the applicant, if an individual, or if a partnership, association or other entity, the names, addresses and occupations of each member of the partnership, association or other entity, or if a corporation, its name, its place of incorporation, its principal place of business, the principal type of business in which it is engaged and the names and addresses of each of its officers and directors;
- (2) The name under which the place is being operated and the location of the same;
- (3) The owner of the business and the owner of the property;
- (4) The number and type of machines sought to be licensed;
- (5) A description of each amusement device sought to be licensed, including for each device the name of the manufacturer, model number and serial number;
- (6) A floor plan in a form and detail satisfactory to the Building Inspector, showing the proposed placement of amusement devices on the applicant's premises in conformance with the criteria governing their placement and operation;
- (7) A statement that no prize, cash or other reward other than a free play will be given to anyone who operates the amusement device.

(b) The Borough Secretary shall transmit the license application and the floor plan to the Building Inspector, the Chief of Police and the Mayor for further inspection and investigation of the applicant's fitness to obtain an amusement device license.

(c) "Fitness" of the applicant shall consist of the following:

- (1) Compliance by applicant with all applicable municipal, county and Commonwealth laws pertaining to operation of applicant's business;

- (2) No prior convictions of applicant (including, where applicable, all officers, directors, partners or other joint business venturers), for any felonies or misdemeanors involving force, violence or moral turpitude. (Ord. 2156. Passed 9-8-82.)

#### **309.04 NUMBER OF DEVICES.**

The number of amusement devices permitted in any business establishment shall be limited to one unless the net floor area of the premises equals or exceeds 800 square feet, in which case a maximum of one amusement device will be permitted for each 400 square feet of net floor space. In no event shall the number of amusement devices exceed five per establishment. (Ord. 2156. Passed 9-8-92.)

#### **309.05 FLOOR PLAN; PLACEMENT OF DEVICES.**

In order to be issued a license under the provisions of this article, an applicant shall submit a floor plan indicating compliance with the following area and location requirements:

- (a) Non Table-Top Devices: In addition to the actual floor plan dimensions of the device, an open area of four feet in depth shall be provided on any player side and an open area of two feet in width shall be provided on any non-player side, except where one such non-player side is positioned adjacent to a wall.
- (b) Table-Top Devices:
  - (1) Designed to be played in a seated position: In addition to the actual floor plan dimensions of the device, an open area of three feet in depth shall be provided on any player side, and an open area of two feet in width shall be provided on any non-player side, except where one such non-player side is positioned adjacent to a wall.
  - (2) Designed to be played in a standing position (e.g., billiard tables, air hockey tables, shuffleboard tables, bowling machines): In addition to the actual floor plan dimensions of the device, an open area of five feet in depth shall be provided on any player side of the device, and an open area of three feet in width shall be provided on any non-player side, except where one such non-player side is positioned adjacent to a wall. The area and location requirements shall be met exclusive of any aiseways, corridors, passageways or other circulation patterns necessary or required for applicant's business. The actual installation shall be in conformity with the plans submitted as the basis for issuance of the license. (Ord. 2156. Passed 9-8-82.)

#### **309.06 COMPLIANCE WITH ZONING LAWS; LOCATION.**

In order to obtain a license under this article, applicant's amusement device must be a permitted accessory use in a C Commercial District. No amusement devices may be operated within 300 feet of a school or place of worship. (Ord. 2156. Passed 9-8-82.)

**309.07 ISSUANCE OF LICENSE; FEE; DISPLAY OF LICENSE AND DECAL.**

(a) The Secretary shall issue an amusement device license if the applicant has demonstrated compliance with the requirements set forth in this article, as well as with all other pertinent municipal, county and Commonwealth codes and has paid the proper fee.  
(Ord. 2156. Passed 9-8-82.)

(b) The annual fee for the license shall be two hundred twenty-five dollars (\$225.00) per amusement device upon applicant's business premises.  
(Ord. 3385. Passed 12-20-04.)

(c) The license shall contain the signature and seal of the Secretary and show the name and address of the licensee, the type of amusement device located on the premises, the number of devices authorized for that location, the amount of fee paid, the date of issuance, the date of expiration and the license number.

(d) Upon issuance of the license for an amusement device, the Secretary will affix a decal upon each licensed amusement device, indicating that the device is licensed by the Borough and indicating the expiration date of that license.  
(Ord. 2156. Passed 9-8-82.)

**309.08 EXPIRATION OF LICENSE; RENEWAL.**

(a) All licenses issued under this article shall expire twelve months from the date of issuance. An application for renewal should be filed with the Borough Secretary on forms to be prescribed by the Secretary, at least ten days prior to the expiration date of the license. In the application the license holder will alert the Borough as to any changes in the information contained in the initial application or floor plan submitted for that amusement device.

(b) A license shall expire prior to the date specified in subsection (a) hereof upon the occurrence of any of the following conditions:

- (1) Discontinuance of the license holder's business;
- (2) Removal of licensed amusement devices from the business premises;
- (3) Transfer or sale of the business to another individual, partnership, corporation or other entity. Upon expiration under this subsection, a license may be renewed only after compliance with the procedures established by this article for the issuance of the original license.  
(Ord. 2156. Passed 9-8-82.)

**309.09 TRANSFER OF LICENSE.**

A license shall not be transferable from person to person nor place to place and shall be useable only at the place and by the person designated on the license.  
(Ord. 2156. Passed 9-8-82.)

**309.10 LICENSE SUSPENSION OR REVOCATION.**

(a) All licenses issued pursuant to the provisions of this article are subject to suspension or revocation by the Borough Secretary upon occurrence of any of the following conditions:

- (1) Willful misrepresentation made by the license holder or his agent in applying for the license;
- (2) Conviction of the license holder for any felony or misdemeanor involving force, violence, moral turpitude or involving any violation of this article;
- (3) The existence of a nuisance to customers, other businesses or the general public stemming from the operation of amusement devices on the license holder's premises. The definition of "nuisance" for the purposes of this section shall include the violation of any provision of any municipal, county or Commonwealth codes;
- (4) Any violation of the provisions of this article.

(b) Prior to any action suspending or revoking any license, the Borough Secretary shall give the license holder written notice of such action, affording an opportunity to the license holder to correct any such deficiencies forming the basis for the suspension or revocation. (Ord. 2156. Passed 9-8-82.)

**309.11 INSPECTION.**

In determining whether to issue, renew, suspend or revoke an amusement device license, the Borough Secretary, the Chief of Police and Building Inspector or their authorized representatives may make an investigation of the premises and the applicant during normal business hours to determine the veracity of statements set forth in the application and compliance with the provisions of this article. (Ord. 2156. Passed 9-8-82.)

**309.12 APPEALS.**

Any person aggrieved by the decision of the Borough Secretary in issuing, denying, suspending, revoking or refusing to suspend or revoke an amusement device license shall have the right to appeal the decision to Council. (Ord. 2156. Passed 9-8-82.)

**309.13 EFFECTIVE DATE; GRANDFATHER CLAUSE.**

This article shall take effect immediately upon final passage as required by law and shall apply to any amusement device presently or hereafter installed, used, operated or maintained within the Borough; except:

- (a) Any amusement device installed, used, operated or maintained within the Borough prior to introduction of this article shall be exempt from this article's maximum device per establishment requirement to the extent that the number of amusement devices on the premises at the time of introduction of this article exceeds the maximum permitted by this article.
- (b) Any amusement device installed, used, operated or maintained with the Borough as a permitted use in a given zoning district prior to introduction of this article shall be exempt from this article's requirement that all amusement devices be located only in C Commercial zoning districts.

- (c) Any amusement device installed, used, operated or maintained within the Borough within 300 feet of a school or place of worship prior to introduction of this article shall be exempt from the provision of this article prohibiting the same.  
(Ord. 2156. Passed 9-8-82.)

**309.99 PENALTY.**

Any person who violates any provision of this article shall, upon conviction thereof, be punished by a fine of three hundred dollars (\$300.00). Each day that a violation occurs or is committed shall constitute a separate offense. Each amusement device operating without a license shall constitute a separate offense.  
(Ord. 3452. Passed 11-20-06.)

**ARTICLE 313**  
**Peddlers and Solicitors**

<b>313.01 Purpose.</b> <b>313.02 Definitions.</b> <b>313.03 Application for license; exhibition.</b> <b>313.04 License fees; duration; nontransferable.</b> <b>313.05 Hours.</b>	<b>313.06 Exemptions.</b> <b>313.07 Suspension of license.</b> <b>313.08 Supervision; record of licenses.</b> <b>313.99 Penalty.</b>
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**CROSS REFERENCES**

Power to regulate peddling and markets - see Borough Code Sec. 1202(31) (53 P.S. Sec. 46202(31))  
Licensing transient retail businesses - see Borough Code Sec. 2901 (53 P.S. Sec. 47901)

**313.01 PURPOSE.**

The purpose of this article is to assist the Borough in the management of its business, the preservation of good order and peace, the health, safety and welfare of its inhabitants and the protection and security of their property.  
(Ord. 2773. Passed 10-19-87.)

**313.02 DEFINITIONS.**

Definitions as used in this article shall have the following meanings indicated. Words used in the singular shall include the plural, and the plural the singular; and the masculine shall include the feminine and the neuter; and the words used in the present tense shall include the future. The word "shall" is mandatory and not discretionary. The word "may" is permissive.

- (a) "Peddling" as used in this article means and includes selling, offering for sale, canvassing, soliciting or taking of orders, either by sample or otherwise, for any goods, wares, merchandise, or services, upon any of the streets, sidewalks, alleys, roads, or from house to house within the Borough. It shall also include conducting such activities on the premises of shopping centers or parking lots thereof or on the premises of other commercial or business operations, provided the owners of such private properties grant permission to the persons desiring to conduct such activity and written evidence of the same is submitted to the Borough.
- (b) "Soliciting" as used in this article means a person who entreats or requests and who seeks trade, business or donations, or makes appeals or requests for contributions for various fundraising causes. The location for the conducting of such soliciting activities shall be the same as set forth for the activity of "peddling".

- (c) "Person" shall mean and include any natural person, association, partnership, firm or corporation engaging in or desiring to engage in peddling or soliciting within the Borough. (Ord. 2773 Passed 10-19-87.)

### **313.03 APPLICATION FOR LICENSE; EXHIBITION.**

Before any natural person, association, partnership, firm or corporation shall engage in peddling or soliciting within the Borough, he shall first make application to the Borough Manager for a license. If such person shall also be required to obtain a license from any county or state officer, he shall, when making such application, exhibit a valid county or state license. Upon such application, such person shall give his name, address, age, a recent photograph or himself, his previous criminal record, if any, the name and address of the person for whom he works, if any; the type of goods, wares, merchandise or services he wishes to peddle, and/or the purpose and pertinent details of the proposed solicitation; the length of time for which he wishes to be licensed; whether he or his organization has had any problems with any authorities in prior solicitations or peddling; and any other appropriate information requested; the type of vehicle and license number to be used, if any, and the number of helpers he has working for him provided: Where a person makes application for a license for himself and one or more helpers, all applicable personal information specified above shall be given for each helper, and an individual license shall be required for each helper and every such person shall carry such license on his person at all times when engaged in peddling or soliciting in the Borough and shall exhibit such license upon request to all police officers, Borough officials and citizens. No person shall be issued a permit under the age of sixteen years.

(Ord. 2773. Passed 10-19-87.)

### **313.04 LICENSE FEES; DURATION; NONTRANSFERABLE.**

No license shall be issued until approved as aforesaid under this article and the proper fee, as follows, shall be paid to the Borough Manager:

- (a) The sum of five dollars (\$5.00) for one day for each individual to be engaged in peddling or soliciting.
- (b) The sum of fifteen dollars (\$15.00) for one week for each individual to be engaged in peddling or soliciting.
- (c) The sum of thirty dollars (\$30.00) for one month for each individual to be engaged in peddling or soliciting.
- (d) No permits will be granted for any period over one month at a time.
- (e) No peddler or solicitor after obtaining an approved license shall engage in selling or soliciting any product not mentioned upon such license.
- (f) No license issued under this article shall be transferable from one person to another.

(Ord. 2773. Passed 10-19-87.)

### **313.05 HOURS.**

No person licensed as a peddler or solicitor under this article shall engage in peddling or soliciting within the Borough at any time on Sunday or on Monday through Friday before 9:00 a.m. or after 9:00 p.m. and on Saturday before 9:00 a.m. or after 12:00 noon.

(Ord. 2773. Passed 10-19-87.)

**313.06 EXEMPTIONS.**

- (a) No license fee shall be charged under this article to:
- (1) Farmers selling their own produce;
  - (2) To the sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose;
  - (3) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products.

However, any of the foregoing persons, associations, partnerships, firms or corporations are required to register with the Borough and are subject to all other provisions of this article.

(b) The Borough Manager upon recommendation of the Mayor is authorized to waive the license fee for those organizations, and individual solicitors for the same, which apply the donations and contributions to charitable or philanthropic purposes. However, even if the license fee is waived, such person, association, partnership, firm or corporation is required to register with the Borough and is subject to all other provisions of this article.

(Ord. 2773. Passed 10-19-87.)

**313.07 SUSPENSION OF LICENSE.**

The Borough Manager is hereby authorized to suspend any license issued under this article when he deems such suspension to be beneficial to the public health, safety or morals or for violation of any of the provisions of this article or for giving false information on any application for a license hereunder.

(Ord. 2773. Passed 10-19-87.)

**313.08 SUPERVISION; RECORD OF LICENSES.**

The Borough Manager shall keep a record of all licenses issued under this article and shall supervise the activities of all holders of such license.

(Ord. 2773. Passed 10-19-87.)

**313.99 PENALTY.**

Any person, persons, partnership or joint stock companies, company, corporation, firm, association, society or individual violating any provision of this article shall, upon conviction before any Magisterial District Judge having jurisdiction be sentenced to pay a fine of three hundred dollars (\$300.00) and the cost of prosecution, for each offense.

(Ord. 3452. Passed 11-20-06.)



**ARTICLE 317**  
**Transient Retail Business**

<b>317.01</b>	<b>Purpose.</b>	<b>317.07</b>	<b>Exemptions.</b>
<b>317.02</b>	<b>Definitions.</b>	<b>317.08</b>	<b>Prohibition of license transfer.</b>
<b>317.03</b>	<b>License required.</b>	<b>317.09</b>	<b>Suspension of license.</b>
<b>317.04</b>	<b>Fee.</b>	<b>317.10</b>	<b>Supervision; record of licenses.</b>
<b>317.05</b>	<b>Application for license.</b>	<b>317.99</b>	<b>Penalty.</b>
<b>317.06</b>	<b>Application review and license issuance.</b>		

**CROSS REFERENCES**

Peddlers and solicitors - see BUS. & TAX. Art. 313

**317.01 PURPOSE.**

The purpose of this article is to assist the Borough in the management of its business, the preservation of good order and peace, the health, safety and welfare of its inhabitants, and the protection and security of their property.  
(Ord. 2774. Passed 10-19-87.)

**317.02 DEFINITIONS.**

Definitions as used in this article shall have the following meanings indicated. Words used in the singular shall include the plural, and the plural the singular; and the words used in the present tense shall include the future. The word "shall" is mandatory and not discretionary. The word "may" is permissive.

- (a) "Transient retail business" means one conducted in a fixed location such as, but not limited to, a store, hotel, motel, building, shopping center, tent, lot, parking lot, truck, tractor-trailer, or structure for the retail or discount sale of goods, wares, merchandise, food products, etc., which business is intended to be conducted for a temporary period of time and not permanently. If the place in which a business is conducted is rented or leased for a period of ninety days or less, such fact shall be evidence that the business named or carried on therein is a "transient business." Transient retail businesses shall be restricted to commercially zoned areas unless provided for otherwise.
- (b) "Transient merchant" means any person, persons, partnership or joint stock company, company, corporation, firm, association, society or individual who engages or proposes to engage in a transient retail business.
- (c) "Transient merchant agent" For purpose of this article, means the owner or representative thereof of the site where the transient retail business is to be conducted.

- (d) "Month" for the purposes of this article means thirty days.  
(Ord. 2774. Passed 10-19-87.)

**317.03 LICENSE REQUIRED.**

No person shall engage in business as a transient merchant unless the transient merchant agent shall first have obtained a license to do so from the Borough Manager.  
(Ord. 2774. Passed 10-19-87.)

**317.04 FEE.**

The fee for a transient merchant license shall be at the rate of two hundred dollars (\$200.00) for each thirty day period or fractional part thereof.  
(Ord. 2774. Passed 10-19-87.)

**317.05 APPLICATION FOR LICENSE.**

The transient merchant agent shall provide the following information:

- (a) Location and address of the proposed transient retail business operation;
- (b) Name and address of the transient merchant agent;
- (c) The name and address of the firm or firms the transient merchant agent is applying for;
- (d) The exact relationship between the firm or firms and the transient merchant agent;
- (e) Sales tax number, Commonwealth of Pennsylvania if applicable;
- (f) A brief description of the business and the kind of goods or commodities which the transient merchant intends to sell;
- (g) The date(s) and time(s) the business is to be conducted;
- (h) Application shall be made to the Borough Manager at least ten days prior to the date the transient merchant business intends to commence operation.  
(Ord. 2774. Passed 10-19-87.)

**317.06 APPLICATION REVIEW AND LICENSE ISSUANCE.**

(a) Upon filing of the application for license, the Borough Manager shall immediately cause a review to be made of the parties named in such statement along with the merchandise for compliance with this article and other applicable ordinances of the Borough.

(b) The Zoning Ordinance of the Borough shall apply to all licenses granted under this article. The Borough reserves the right to deny or revoke any license which violates the Zoning Ordinance. Any regulations or requirements set forth in the Zoning Ordinance shall be considered as additions to this article. Any and all conditions and requirements in the Zoning Ordinance must be fully met and complied with as if they were stated within and attached to this article.

(c) Upon review and approval by the Borough Manager, an occupancy permit shall be issued. For purposes of this article, the occupancy permit shall be considered as the approved license. The occupancy permit shall note the following:

- (1) The date the license shall be considered valid;
- (2) The date the license shall expire;
- (3) The name of the transient retail business(es) or transient merchant(s) for which or whom the license is issued;

- (4) The name of the transient merchant agent for which or whom the license is issued.  
(Ord. 2774. Passed 10-19-87.)

#### **317.07 EXEMPTIONS.**

Nothing contained in this article shall be construed to apply to:

- (a) Farmers selling their own produce;  
(b) To the sale of goods, wares and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose;  
(c) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products.  
(Ord. 2774. Passed 10-19-87.)

#### **317.08 PROHIBITION OF LICENSE TRANSFER.**

(a) No license shall be transferred or considered applicable to another transient retail business or transient merchant(s) by the transient merchant agent. Licenses shall be valid only for the transient retail business(es) or transient merchants for which or whom it was originally applied and issued.

(b) If within the period the license is valid the transient merchant(s) for which or whom the license was issued ceases operation, he may commence operations again within the validity period without obtaining a new license, if notification is given to the Borough Manager of the date the business is to cease operation and the approximate date which it is intended to commence operation again, as long as the operation does not violate the original period.

(c) If when the transient merchant intends to recommence operation new transient retail business(es) or transient merchant(s) will also start operations, then the transient merchant agent shall obtain a new license for the new transient retail business(es) or transient merchant(s).  
(Ord. 2774. Passed 10-19-87.)

#### **317.09 SUSPENSION OF LICENSE.**

The Borough Manager is hereby authorized to suspend any license issued under this article when he deems such suspension to be beneficial to the public health, safety or morals or for violation of any of the provisions of this article or for giving false information upon any application for a license hereunder.  
(Ord. 2774. Passed 10-19-87.)

#### **317.10 SUPERVISION; RECORD OF LICENSES.**

The Borough Manager shall keep a record of all licenses issued under this article and shall supervise the activities of all holders of such license.  
(Ord. 2774. Passed 10-19-87.)

#### **317.99 PENALTY.**

Any person, persons, partnership or joint stock companies, company, corporation, firm, association, society or individual violating any provisions of this article shall, upon conviction before any Magisterial District Judge having jurisdiction, be sentenced to pay a fine of three hundred dollars (\$300.00) and the cost of prosecution, for each offense.  
(Ord. 3452. Passed 11-20-06.)



TITLE THREE - Taxation

- Art. 341. Rental Occupancy Reports.
- Art. 345. Income Tax.
- Art. 349. Occupational Privilege Tax.
- Art. 353. Business Privilege Tax.
- Art. 357. Real Estate Transfer Tax.
- Art. 361. Mercantile License Tax.
- Art. 365. Per Capita Tax.
- Art. 369. Real Property Tax.
- Art. 373. Admissions Tax.
- Art. 377. Tax Relief.
- Appendices.

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**ARTICLE 341**  
**Rental Occupancy Reports**

- 341.01 Lists of lessees required.**
- 341.02 Use by Borough.**
- 341.99 Penalty.**

CROSS REFERENCES

Income tax - see BUS. & TAX. Art. 345

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**341.01 LISTS OF LESSEES REQUIRED.**

The owners, lessors and rental agents of all real estate, residences, apartments, stores and other structures in the Borough leased, offered for lease or occupied by persons, partnerships, corporations or others than the owner thereof shall, within thirty days after the effective date of this article, supply to the Borough Tax Collector, lists of the names and addresses of all current lessees and occupants of real estate, residences, apartments, stores and other structures of which they are the owners, lessors or rental agents and shall thereafter supply to the Tax Collector, in writing, and within thirty days, the names and addresses of all new lessees or occupants of such premises.

(Ord. 1196. Passed 3-22-71.)

**341.02 USE BY BOROUGH.**

The Tax Collector shall supply the names and addresses of all lessees and occupants of real estate obtained by him hereunder or by any other means to all other officials and departments of the Borough requesting same for the proper performance of their duties.  
(Ord. 1196. Passed 3-22-71.)

**341.99 PENALTY.**

Any person, firm or corporation violating the provisions of this article shall, upon conviction thereof, be subject to a fine of not more than one hundred dollars (\$100.00) and costs.  
(Ord. 1196. Passed 3-22-71.)

**ARTICLE 345**  
**Income Tax**

<p><b>345.01</b> Definitions.</p> <p><b>345.02</b> Imposition of tax.</p> <p><b>345.03</b> Declaration and payment of tax.</p> <p><b>345.04</b> Collection at source.</p> <p><b>345.05</b> Powers and duties of income tax officer.</p>	<p><b>345.06</b> Suit for collection of tax.</p> <p><b>345.07</b> Interest and penalties.</p> <p><b>345.08</b> Payment under protest and refunds.</p> <p><b>345.09</b> Rules and regulations.</p> <p><b>345.10</b> Collection cost for delinquent taxpayers.</p> <p><b>345.99</b> Penalty.</p>
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**345.01 DEFINITIONS.**

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning.

- (a) "Association" means a partnership, limited partnership, or any other unincorporated group of two or more persons.
- (b) "Business" means 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.
- (c) "Corporation" means 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.
- (d) "Current year" means the calendar year for which the tax is levied.
- (e) "Domicile" means 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 place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

- (f) "Earned income" means 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 payments arising under worker'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 after reaching a specific age or after a stated period of employment or payments commonly known as public assistance, or unemployment compensation payments made 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.
- (g) "Income tax officer or officer" means the person, public employee or private agency designated by the governing body to collect and administer the tax on earned income and net profits.
- (h) "Employer" means a person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation.
- (i) "Net profits" means 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.
- (j) "Nonresident" means a person, partnership, association or other entity domiciled outside the taxing district.
- (k) "Person or individual" means a natural person.
- (l) "Preceding year" means the calendar year before the current year.
- (m) "Resident" means a person, partnership, association or other entity domiciled in the taxing district.
- (n) "Succeeding year" means the calendar year following the current year.
- (o) "Taxpayer" means 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.  
(Ord. 940. Passed 11-28-66.)

#### **345.02 IMPOSITION OF TAX.**

A tax for general revenue purposes of one percent (1%) is hereby imposed on the following:

- (a) Salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation earned in the period beginning January 1, of the current year by the residents of the Borough.

- (b) Salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation earned in the period beginning January 1, of the current year, by non-residents of the Borough for work done or services performed or rendered in the Borough.
- (c) Net profits earned in the period beginning January 1, of the current year, on businesses, professions and other activities conducted by residents of the Borough, and
- (d) Net profits earned in the period beginning January 1, of the current year, on businesses, professions and other activities conducted in the Borough by non-residents.

The tax levied under subsections (a) and (b) shall relate to and be imposed upon salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation paid by an employer or on his behalf to any person who is employed by or renders services to him. The tax levied under subsections (c) and (d) 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.

The tax levied by 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, which tax shall continue in force thereafter on a calendar year basis.

If any other political subdivision having the power to do so should impose a tax on earnings and net profits within the Borough during the same year or part of the same year, under the authority of Act No. 511 of 1965, known as "The Local Tax Enabling Act", and any subsequent amendment, then the tax levied hereby shall, during the time such duplication of the tax exists, be one-half of one percent (.5%) on such earnings and net profits as above set forth, and such one-half of one percent (.5%) shall become effective by virtue of the requirements of such Act from the day such duplication becomes effective, without any action on the part of the political subdivision imposing the tax under the authority of the Act.

(Ord. 940. Passed 11-28-66.)

### **345.03 DECLARATION AND PAYMENT OF TAX.**

#### **(a) Net Profits.**

- (1) Every taxpayer who anticipates any net profits shall on or before April 15, of the current year make and file with the income tax officer on a form prescribed by the income tax officer, a declaration of his estimated net profits in the period beginning January 1, of the current year and ending December 31, of the current year and on the same dates with respect to any succeeding calendar year; setting forth the estimated amount of net profits anticipated by him during the period and subject to the tax, the amount of tax imposed by this article on such estimated net profits, and such other information as the income tax officer may require. The taxpayer making the declaration shall, at the time of filing thereof, pay to the income tax officer the estimated amount of tax shown as due thereon. Provided, however, that the taxpayer shall have the right to pay the estimated tax in four quarterly installments as follows: The first installment at the time of filing the declaration on or before April 15, of the current year, and the other installments on or before July 15, of the current year, October 15, of the current year and January 15, of the next calendar year, respectively.

- (2) Any taxpayer who first anticipates any net profits after April 15, of the current year, shall make and file the declaration herein above required on or before July 15, of the current year, October 15, of the current year or January 15, of the next calendar year and on the same dates with respect to any succeeding calendar year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profits. The taxpayer making the declaration shall, at the time of filing thereof, pay to the income tax officer the estimated amount of tax shown as due thereon; provided, however, that the taxpayer shall have the right to pay the estimated tax in equal installments on or before the quarterly installment payment dates which remain after the filing of the declaration.
- (3) The income tax officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payment 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.
- (4) On or before March 15, of the next calendar year every taxpayer who has received net profits shall make and file with the income tax officer, on a form prescribed by him, a final return under oath or solemn affirmation, showing all of his net profits for the period beginning January 1, of the current year and ending December 31, of the current year and on March 15, of the next calendar year or any succeeding calendar year, the total amount of tax due, the amount of estimated tax paid under the provisions of this section, and the balance due. Provided, however, that any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the income tax officer, on or before January 15, of the next calendar year the final return as hereinabove required. 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.
- (5) Every taxpayer who discontinues business prior to December 31, of the current year will pay the tax due or on the same date with respect to any succeeding calendar year during which the taxpayer may discontinue business prior to December 31, of that year, within fifteen days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

(b) Salaries, Wages, Commissions, Bonuses, Incentive Payments, Fees, Tips and Other Compensation. Every taxpayer who is employed on a salary, wage, commission, bonus, incentive payment, fee, tip or other compensation basis, and who receives any earnings not subject to the provisions of Section 345.04 relating to the collection at source, shall on or before April 15, of the current year, make and file with the income tax officer, on a form prescribed by the income tax officer, a return, under oath or solemn affirmation, setting forth the aggregate amount of salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation earned by him during the three month period ending March 31, of the current year and subject to the tax, together with such other information as the income tax officer may require. He shall also, on or before July 15, of the current year, October 15, of the current year and January 15, of the next calendar year, make and file with the income tax officer, on a form prescribed by the income tax officer, a return under oath or solemn affirmation, setting forth the aggregate amount of salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation earned by him during the three month periods ending June 30, of the current year, September 30, of the current year and December 31, of the current year respectively, and on the same dates with respect to any succeeding calendar year, and subject to the tax, together with such other information as the income tax officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the income tax officer the amount of tax shown as due thereon. (Ord. 940. Passed 11-28-66.)

#### **345.04 COLLECTION AT SOURCE.**

(a) Every employer having an office, factory, workshop, branch, warehouse or other place of business within the Borough, who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within fifteen days after becoming an employer, register with the income tax officer his name and address and such other information as the officer may require.

(b) Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Borough who employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation shall deduct at the time of payment thereof, the tax imposed by this article on the earned income due to his employee or employees, and shall, on or before April 30, of the current year, July 31, of the current year, October 31, of the current year, and January 31, of the succeeding calendar year, file a return and pay to the income tax officer 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, and on the same dates with respect to any succeeding calendar year. Such return unless otherwise agreed upon between such officer 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 political subdivisions imposing the tax upon such employee, 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

Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the officer to file his return and pay the tax monthly. In such cases, payment of tax shall be made to such officer 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, and on the same date with respect to any succeeding calendar year, every employer shall file with the officer:

- (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 officer 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 to the employee during such period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, the amount of tax paid to the officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

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

(e) 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.  
(Ord. 940. Passed 11-28-66.)

#### **345.05 POWERS AND DUTIES OF INCOME TAX OFFICER.**

(a) It shall be the duty of the officer 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 received by him from each person or business paying the tax and the date of such receipt.

(b) Such officer is hereby charged with the administration and enforcement of the provisions of this article and is hereby empowered to prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the re-examination and correction of declarations and returns, and of payments, alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in cases of overpayment, for any period of time not to exceed six 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 the governing body. A copy of such rules and regulations currently in force shall be available for public inspection. (Ord. 940. Passed 11-28-66.)

(c) Said officer shall refund, on petition of, and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer. (Ord. 3215. Passed 4-16-01.)

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

(e) Any information gained by the officer, his agents, or by any other official or agent of the Borough, 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. (Ord. 940. Passed 11-28-66.)

#### **345.06 SUIT FOR COLLECTION OF TAX.**

(a) The income tax officer may sue in the name of the Borough 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 years after such tax is due, or within three 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 officer, 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 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 officer, or where any person has willfully failed or omitted to make the deductions required by this section, there shall be no limitation.
- (5) This section shall not be construed to limit the governing body from recovering delinquent taxes by any other means provided by this Act.

(c) The officer may sue for recovery of an erroneous refund provided such suit is begun two years after making such refund except that the suit may be brought within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact. (Ord. 940. Passed 11-28-66.)

#### **345.07 INTEREST AND PENALTIES.**

If for any reason the tax is not paid when due, interest at the rate of six percent (6%) per annum on the amount of such tax, and an additional penalty of one-half of one percent (.5%) 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 therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed. (Ord. 940. Passed 11-28-66.)

#### **345.08 PAYMENT UNDER PROTEST AND REFUNDS.**

The income tax officer is hereby authorized to accept payment under protest of the amount of tax claimed by the Borough in any case where any person disputes the validity or amount of the Borough's claim for the tax. If it is thereafter judicially determined by a Court of competent jurisdiction that there has been an overpayment to the officer, the amount of the overpayment shall be refunded to the person who paid under protest. (Ord. 940. Passed 11-28-66.)

#### **345.09 RULES AND REGULATIONS.**

EDITOR'S NOTE: Council has enacted Resolution 3441, passed February 15, 2004, as amended by Res. 3360, which approved certain rules and regulations in regards to this article. See Appendix D for the current rules and regulations.

#### **345.10 COLLECTION COST FOR DELINQUENT TAXPAYERS.**

(a) From and after the enactment of this section, to each delinquent earned income tax assessment, levy or obligation owned to the Borough of White Oak there shall be added such attorney's fees, charges and expenses incurred in the collection process subsequent to proper notification to such taxpayer of the intent to impose those fees upon the delinquent earned income tax obligation. Such additional charges shall be collected in addition to all interest and penalties as are allowed.

(b) Such fees shall be reasonable and the same are hereby established in a fee rate as attached herein and made a part thereof as Schedule "A". Said schedule of fees is hereby deemed to be reasonable, fair and necessary in order to allow the Borough to collect such sum due. This schedule may be amended from time to time by resolution of the Borough of White Oak.

(c) Any person or entity empowered to collect sums on behalf of the Borough is directed to add such fees as are incurred to the extent allowed as set forth in Schedule "A". Such sums collected pursuant to this section shall be in addition to any tax penalty, interest or other costs already part of the delinquent account or assessment. The sums collected pursuant to this section shall be remitted to the municipal taxing authority in the same manner as the underlying tax obligation.

(Ord. 3162. Passed 3-20-00.)

**345.99 PENALTY.**

(a) Any person who fails, neglects, or refuses to make any declarations 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 deduct or withhold the tax from his employees, any person who refuses to permit the officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this article, shall, upon conviction thereof, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each offense, and costs, and in default of payment of such fine and costs to be imprisoned for a period not exceeding thirty days.

(b) Any person who divulges any information which is confidential under the provisions of this article, shall upon conviction thereof be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each offense, and costs, and, in default of payment of such fines and costs to be imprisoned for a period not exceeding thirty 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.

(Ord. 940. Passed 11-28-66.)



**ARTICLE 349**  
**Occupational Privilege Tax**

<b>349.01</b>	<b>Definitions.</b>	<b>349.08</b>	<b>Employers and self-employed individuals residing beyond the corporate limits.</b>
<b>349.02</b>	<b>Levy.</b>		
<b>349.03</b>	<b>Amount of tax.</b>		
<b>349.04</b>	<b>Duty of employers.</b>		
<b>349.05</b>	<b>Dates for determining tax liability and payment.</b>	<b>349.09</b>	<b>Non-resident taxpayers.</b>
<b>349.06</b>	<b>Individuals engaged in more than one occupation.</b>	<b>349.10</b>	<b>Administration of tax.</b>
<b>349.07</b>	<b>Self-employed individuals.</b>	<b>349.11</b>	<b>Suits for collection.</b>
		<b>349.12</b>	<b>Rules and regulations.</b>
		<b>349.99</b>	<b>Penalty.</b>

**CROSS REFERENCES**

Restrictions on power to tax - see Local Enabling Act Sec. 2(9) (53 P.S. 6902(9))

Limit of tax - see Local Tax Enabling Act Sec. 8(8) (53 P.S. 6908(8))

Collection of delinquent taxes - see Local Tax Enabling Act Sec. 19 (53 P.S. Sec. 6919)

Rules and regulations - see BUS. & TAX. Appendix A.

**349.01 DEFINITIONS.**

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

- (a) "Individual" means any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Borough.
- (b) "Occupation" means any trade, profession, business, livelihood, job or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the Borough for which compensation is charged or received whether by means of salary, wages, commissions, fees or any other compensation basis for services rendered.
- (c) "Employer" means an individual, partnership, limited partnership, unincorporated association, trust, corporation, governmental agency or any other entity or body employing one or more persons on a salary, wage, fee, commission, or any other compensation basis, including a self-employed person.
- (d) "Tax" means the Occupation Privilege Tax in the amount of ten dollars (\$10.00), levied by this article.

- (e) "Collector" means the Collector of Earned Income Tax of the Borough.
- (f) "Secretary" means the Secretary of the Borough.
- (g) "Borough" means the area within the corporate limits of the Borough of White Oak.
- (h) "He", "His", or "Him" means and indicates the singular and the plural number, as well as male, female and neuter gender.  
(Ord. 1502. Passed 2-16-76.)

#### **349.02 LEVY.**

For the year 1976 and annually thereafter, the Borough hereby levies and imposes on each occupation engaged in by individuals deriving one thousand dollars (\$1,000) or more, per year from such occupation within its corporate limits an Occupation Privilege Tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough. (Ord. 1502. Passed 2-16-76.)

#### **349.03 AMOUNT OF TAX.**

For the year 1976 and annually thereafter, each occupation, as hereinbefore defined, engaged in within the corporate limits of the Borough of White Oak, shall be subject to an Occupation Privilege Tax in the amount of ten dollars (\$10.00) per annum, such tax to be paid by the individual so engaged.  
(Ord. 1502. Passed 2-16-76.)

#### **349.04 DUTY OF EMPLOYERS.**

Each employer within the Borough, as well as those employers situated outside the Borough, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Borough, the tax of ten dollars (\$10.00) per annum, 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 employ, whether the employee is paid by salary, wages, commissions, fees or any other compensation basis, and whether or not part or all of such services are performed within the Borough.  
(Ord. 1502. Passed 2-16-76.)

#### **349.05 DATES FOR DETERMINING TAX LIABILITY AND PAYMENT.**

Each employer shall use his employment records from the first day of January, 1976, to March 31, 1976, for determining the number of employees from whom such tax shall be deducted and paid over to the Collector on or before April 30, 1976. Supplemental reports shall be made by each employer on July 31, 1976, and October 31, 1976, and January 31, 1977, of new employees as reflected on his employment records from April 1, 1976, to June 30, 1976; from July 1, 1976, to September 30, 1976; and from October 1, 1976, to December 31, 1976. Payments on these supplemental reports shall be made on July 31, 1976, October 31, 1976, and January 31, 1977, respectively. The same dates shall apply annually hereafter. (Ord. 1502. Passed 2-16-76.)

#### **349.06 INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION.**

Each individual who shall have more than one occupation within the Borough shall be subject to the payment of this tax on his principal occupation, and his principal employer shall deduct this tax and deliver to him evidence of deduction on a form to be furnished to the employer by the Collector, which form shall be evidence of deduction having been made and when presented to any other employer shall be authority for such employer to NOT DEDUCT this tax from the employee's wages, but to include such employee on his return by setting forth his name, address and the name and account number of the employer who deducted this tax.  
(Ord. 1502 Passed 2-16-76.)

**349.07 SELF-EMPLOYED INDIVIDUALS.**

All self-employed individuals who perform services of any type or kind, engage in any occupation or profession within the Borough shall be required to comply with this article and pay the tax to the Collector on April 30, 1976, or thereafter as he engages in an occupation, to pay the tax in the manner hereinafter set forth in Section 349.05.  
(Ord. 1502. Passed 2-16-76.)

**349.08 EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS RESIDING BEYOND THE CORPORATE LIMITS.**

All employers and self-employed individuals residing or having their place of business outside the Borough, but who perform services of any kind or type, or engage in any occupation or profession within the Borough, do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article, with the same force and effect as though they were residents of the Borough. Further, any individual engaged in an occupation within the Borough and an employee of a non-resident employer may, for the purpose of this article, be considered a self-employed person, and in the event this tax is not paid, the Borough shall have the option of proceeding against the employer or employee for the collection of this tax as hereinafter provided.  
(Ord. 1502. Passed 2-16-76.)

**349.09 NON-RESIDENT TAXPAYERS.**

Both residents and non-residents shall, by virtue of engaging in an occupation within the Borough, be subject to the Tax and the provisions of this article.  
(Ord. 1502. Passed 2-16-76.)

**349.10 ADMINISTRATION OF TAX.**

(a) It shall be the duty of the Collector of the Occupation Tax 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 article and is hereby charged and empowered to prescribe, adopt, promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article including provisions for the examination of the payroll records of any employer subject to this article; the examination and correction of any return made in compliance with this article 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 the decision of the Collector shall have the right to appeal to the Court of Common Pleas of Allegheny 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.  
(Ord. 1502. Passed 2-16-76.)

**349.11 SUITS FOR COLLECTION.**

(a) In the event that any tax under this article remains due or unpaid thirty days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article together with interest and penalty.

(b) If for any reason the tax is not paid when due, interest at the rate of six percent (6%) on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of five percent (5%) shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.  
(Ord. 1502. Passed 2-16-76.)

**349.12 RULES AND REGULATIONS.**

Council shall, from time to time, prepare and approve certain rules and regulations in regards to this article. Such rules and regulations shall be enacted by ordinance or resolution and shall become a part of this article and be read in conjunction therewith. (See Appendix A. for current rules and regulations.)  
(Ord. 1502. Passed 2-16-76.)

**349.99 PENALTY.**

Whoever makes any false or untrue statement on any return required by this article, or who refuses inspection of his books, records, or accounts in his custody and control setting forth the number of employees subject to this tax who are in his employment, or, whoever fails or refuses to file any return required by this article, shall upon conviction before any Alderman or Magistrate be sentenced to pay a fine of not more than one hundred dollars (\$100.00), and in default of payment of such fine and costs, be imprisoned in Allegheny County Jail for a period not exceeding thirty days. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refuses to file a return required by this article.  
(Ord. 1502. Passed 2-16-76.)

**ARTICLE 353**  
**Business Privilege Tax**

<b>353.01 Title.</b>	<b>353.07 Powers and duties of collector.</b>
<b>353.02 Definitions.</b>	<b>353.08 Suit on collection; penalty.</b>
<b>353.03 Imposition and rate of tax.</b>	<b>353.09 Fine and penalties.</b>
<b>353.04 Computation of gross annual receipts.</b>	<b>353.10 Saving clause.</b>
<b>353.05 Returns and registration.</b>	<b>353.11 Rules and regulations.</b>
<b>353.06 Payment at time of filing return.</b>	

**CROSS REFERENCES**

Local Tax Enabling Act. see Act 511 (53 P.S. Sec. 6901-6924)  
Rules and regulations - see BUS. & TAX. Appendix B.

**353.01 TITLE.**

This article shall be known and may be cited as the "Business Privilege Tax Ordinance."  
(Ord. 3044. Passed 12-16-96.)

**353.02 DEFINITIONS.**

As used in this article, unless the context indicates clearly a different meaning, the following words and phrases shall have the meaning set forth below:

- (a) "Borough" means the Borough of White Oak.
- (b) "Person" means any natural person, partnership, unincorporated association or corporation, non-profit or otherwise. Whenever used in any provision prescribing a fine or penalty, the word "person", as applied to partnerships, shall mean the partners thereof, and as applied to corporations and unincorporated associations, shall mean the officers thereof.
- (c) (1) "Business" means carrying on or exercising whether for gain or profit or otherwise within the Borough of White Oak any trade, business, including, but not limited to, financial business as hereinafter defined, profession, vocation, service, construction, communication or commercial activity, making sales to persons or rendering services from or attributable to a White Oak Borough office or place of business.
- (2) "Business" shall not include the following: any business which is subject to the Borough of White Oak Mercantile Tax, the business of any political subdivision, any employment for a wage or salary, any business upon which the power to levy a tax is withheld by law.
- (d) "Financial Business" means the services and transactions of banks and bankers, trust credit and investment companies, where not prohibited by law, holding companies, dealers and brokers in money, credits, commercial paper, bonds, notes, securities and stocks, monetary metals, factors and commission merchants.

- (e) "Tax Year" means the twelve-month period from January 1st to December 31st.
- (f) "Gross Receipts" means cash, credits, property of any kind or nature received in or allocable or attributable to the Borough of White Oak from any business or by reason of any sale made, including resales of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares or merchandise, or services rendered or commercial or business transaction had within the Borough of White Oak. without deduction therefrom on account of the cost of property sold, materials used, labor, service, or other cost, interest or discount paid, or any other expense.  
"Gross Receipts" shall include:
  - (1) The amount of any allowance made for goods, wares or merchandise taken by a deal as a trade-in or as part payment for other goods, wares and merchandise in the usual and ordinary course of his business.
  - (2) In the case of a financial business, the cost of securities and other property sold, exchanged, paid at maturity, or redeemed and moneys or credits received in repayment of advances, credits and loans, but not to exceed the principal amount of such advances, credits and loans, and shall also exclude deposits.
  - (3) In the case of a broker, any commissions paid by him to another broker on account or a purchase or sales contract initiated, executed or cleared in conjunction with such other broker.
  - (4) Receipts by dealers from sales to other dealers in the same line at the same price for which he acquired the goods wares or merchandise.
  - (5) Receipts or that portion thereof attributable to interstate or foreign commerce or to an office or place of business regularly maintained by the taxpayer outside the limits of the Borough of White Oak, and not for the purpose of evading payment of this tax and those receipts which the Borough is prohibited from taxing by law. Such receipts shall be segregated as set forth in Section 353.04(c).
- (g) "Collector of Business Privilege Tax" or Collector shall mean a Collector of Business Privilege Tax of the Borough of White Oak.
- (h) "Temporary, seasonal or itinerant business" shall mean any business that is conducted at one location for less than sixty consecutive calendar days.
- (i) "Gross Receipts" shall include both cash and credit transactions.  
(Ord. 3044. Passed 12-16-96.)

### **353.03 IMPOSITION AND RATE OF TAX.**

Every person engaging in any business in the Borough of White Oak beginning with the tax year 1997, and annually thereafter, shall pay an annual tax at the rate of five mills on ninety percent (90%) of the gross annual receipts thereof. The tax imposed by this article shall apply to a maximum of twelve million dollars (\$12,000,000) of annual gross receipts before the computation of ninety percent (90%) is made thereon. (Ord. 3044. Passed 12-16-96.)

### **353.04 COMPUTATION OF GROSS ANNUAL RECEIPTS.**

(a) Every person subject to the payment of the tax hereby imposed who has commenced his business at least one full year prior to the beginning of any tax year shall compute his annual gross receipts upon the actual receipts received by him during the preceding calendar year.

(b) Every person subject to the payment of the tax hereby imposed who has commenced his business less than one full year prior to the tax year 1997, or who has commenced his business subsequent to the beginning of any tax year for such tax year, shall compute his annual gross receipts upon the actual gross receipts received by him during the part of such tax year remaining, and on the actual gross receipts of his first full year for the second full tax year he engages in business, as the case may be. In the case of a business commencing less than one full year prior to any tax year, the average monthly volume of business multiplied by twelve shall be the basis for computing the gross volume of business for the first full tax year.

(c) Where a receipt in its entirety cannot be subjected to the tax imposed by this article by reason of the provisions of the Constitution of the United States, or any other provision of law, including exemptions within this article, the Collector shall establish rules and regulations and methods of allocation and evaluation so that only that part of such receipt which is properly attributable and allocable to the doing of business in the Borough of White Oak shall be tax hereunder. The Collector may make such allocation with due regard to the nature of the business concerned on the basis of millage division of the receipt according to the number of jurisdictions in which it may be taxes, the ratio of the value of the property or assets of the taxpayer owned and situated in the Borough of White Oak to the total property or assets of the taxpayer wherever owned and situated and any other method or methods of calculation other than the foregoing, calculated to effect a fair and proper allocation. Every person who ceases to carry on a business during any tax year shall be permitted to apportion his tax for such year, and shall pay for such tax year an amount to be computed by multiplying his gross receipts for the preceding full calendar year by a fraction whose numerator shall be the number of months such person was in business during the tax year and whose denominator shall be twelve.

(d) Every person subject to the payment of the tax hereby imposed who engages in a business, temporary, seasonal or itinerant by its nature, shall compute his annual gross receipts upon the actual gross receipts received by him during such tax year.

(e) Every person subject to the payment of the tax hereby imposed, and who is also subject to the Occupation Privilege Tax levied by Article 349 and its amendments, may deduct said Occupation Privilege Tax from the amount of tax due and owing under the provisions of this article. (Ord. 3044. Passed 12-16-96.)

### **353.05 RETURNS AND REGISTRATION.**

(a) Every person subject to the tax imposed by this article shall, forthwith, register with the Collector and set forth his name, address, business address, and the nature of the business activity in which he is engaged.

(b) Every return shall be made upon a form furnished by the Collector. Every person making a return shall certify the correctness thereof.

(c) Every person subject to the tax imposed by this article who has commenced his business at least one full year prior to the beginning of any tax year shall, on or before May 15, 1997, and annually thereafter, file with the Collector a return setting forth his name, his business, business address and such other information as may be necessary in arriving at the annual gross volume of business transacted by him during the preceding year and the amount of the tax due.

(d) Every person subject to the tax imposed by this article who has commenced his business less than one full year prior to the beginning of the tax year 1997, shall, on or before May 15, 1997, file with the Collector a return setting forth his name, his business, business address, and such other information as may be necessary in arriving at the actual gross volume of business transacted by him during the period of operation prior to January 1, 1997, and the amount of tax due.

(e) Every person subject to the tax imposed by this article who commences business subsequent to the beginning of any tax year for such tax year shall, on or before January 31st of the succeeding tax year, file a return with the Collector setting forth his name, his business, business address, and such other information as may be necessary in arriving at the actual gross volume of business transacted by him during the tax period, and the amount of tax due.

(f) Every person subject to the tax imposed by this article who commences business subsequent to the beginning of any tax year shall, on or before May 15th of the succeeding tax year, file a return with the Collector setting forth his name, his business, business address, and such other information as may be necessary in arriving at the gross volume of business for the first full year, and the amount of the tax due. The average monthly volume of business transacted in the preceding year multiplied by twelve shall be the basis for computing the gross volume of business for the first full tax year.

(g) Every person subject to the payment of the tax imposed by this article who engages in a business temporary, seasonal or itinerant by its nature shall, within seven days from the day he completes such business, file a return with the Collector, setting forth his name, his business, business address, and such other information as may be necessary in arriving at the actual gross volume of business during the tax period, and the amount of the tax due.  
(Ord. 3044. Passed 12-16-96.)

### **353.06 PAYMENT AT TIME OF FILING RETURN.**

The person making the return shall, at the time of filing the return, pay the amount of tax shown as due thereon to the Collector. (Ord. 3044. Passed 12-16-96.)

### **353.07 POWERS AND DUTIES OF COLLECTOR.**

(a) It shall be the duty of the 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 received by him from each person paying the tax, and the date of such receipts.

(b) The Collector is hereby charged with the administration and enforcement of the provisions of this article, and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provision for the reexamination and correction of returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds where necessary. Any person aggrieved by any decision of the Collector shall have the right to appeal to Court as in other cases provided.

(c) The Collector is hereby authorized to compel the production of books, papers and records, and the attendance of all persons before him whether as parties or witnesses whom he believes to have knowledge of such receipts.

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

(e) Any information gained by any councilman, any other official, employee or agent of the Borough of White Oak, as a result of any return, investigations, hearing, or verifications required or authorized by this article, shall be confidential, except for official purposes, and except in accordance with proper judicial order, or as otherwise provided by law. Any disclosure of any such information contrary to the provisions of this section shall constitute a violation of this article, the penalty for which, upon conviction before any alderman or magistrate, shall be not more than one hundred dollars (\$100.00) for each offense; and in default of payment of said fine to be imprisoned in Allegheny County Jail for a period not exceeding thirty days for each offense. Any employee or agent of the Borough shall be summarily dismissed from his or her employment for the disclosure of any such information.

(f) The Collector is hereby instructed and authorized to impound all returns, verifications and records that come into his custody through the operation of this article.

(g) The Collector is hereby authorized to compel the production of copies of the taxpayer's federal and/or state income tax returns to verify and determine the gross annual receipts and any other matters relevant to the accuracy of the return. The production of copies of the taxpayer's returns shall include the taxpayer's Schedule C in case of a sole proprietorship, a partnership return in case of a partnership and a corporate return in case of a corporation. (Ord. 3044. Passed 12-16-96.)

### **353.08 SUIT ON COLLECTION; PENALTY.**

(a) The Collector may sue for the recovery of taxes due and unpaid under this article.

(b) If, for any reason, the tax is not paid when due in each year, interest at the rate of six percent (6%) per annum, and an additional penalty of one-half of one percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed. (Ord. 3044. Passed 12-16-96.)

### **353.09 FINE AND PENALTIES.**

Whoever makes any false or untrue statement on his return, or who refuses to permit inspection of the books, records or accounts of any business in his custody or control when the right to make such inspection by the Collector is requested, and whoever fails or refuses to file a return required by this article shall, upon conviction from any alderman or magistrate, be sentenced to pay a fine of not more than three hundred dollars (\$300.00) for each offense, and in default of payment of said fine, be imprisoned in Allegheny County Jail for a period not exceeding thirty days for each offense. (Ord. 3044. Passed 12-16-96.)

### **353.10 SAVING CLAUSE.**

(a) Nothing contained in this article shall be construed to empower the Borough of White Oak to levy and collect the taxes hereby imposed on any person or any business or any portion of any business not within the taxing power of the Borough of White Oak under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.

(b) If the tax, or any portion thereof, imposed upon any person under the provisions of this article shall be held by any Court of competent jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania, the decision of the Court shall not affect or impair the right to impose the taxes or the validity of the taxes so imposed upon other persons as herein provided.

(c) If a final decision of a court of competent jurisdiction hold any provision of this article, or the application of any provision to any circumstances, to be illegal or unconstitutional, the other provisions of this article, or the application of such provision to other circumstances, shall remain in full force and effect. The intention of Council is that the provisions of this article shall be severable and that this article would have been adopted if any such illegal or unconstitutional provisions had not been included. (Ord. 3044. Passed 12-16-96.)

### **353.11 RULES AND REGULATIONS.**

The Borough Council shall, from time to time, prepare and approve certain rules and regulations in regard to the tax imposed hereunder. Said rules and regulations shall be enacted by either Ordinance or Resolution, and shall become a part of this article and read in conjunction therewith. (Ord. 3044. Passed 12-16-96.)

**ARTICLE 357**  
**Real Estate Transfer Tax**

<b>357.01</b>	<b>Authority.</b>	<b>357.07</b>	<b>Acquired company.</b>
<b>357.02</b>	<b>Definitions.</b>	<b>357.08</b>	<b>Credits against tax.</b>
<b>357.03</b>	<b>Imposition of tax; interest.</b>	<b>357.09</b>	<b>Extension of lease.</b>
<b>357.04</b>	<b>Exempt parties.</b>	<b>357.10</b>	<b>Proceeds of judicial sale.</b>
<b>357.05</b>	<b>Excluded transactions.</b>	<b>357.11</b>	<b>Duties of Recorder of Deeds.</b>
<b>357.06</b>	<b>Documents relating to associations or corporations and members, partners, stockholders or shareholders thereof.</b>	<b>357.12</b>	<b>Statement of value.</b>
		<b>357.13</b>	<b>Unlawful acts.</b>
		<b>357.99</b>	<b>Penalty.</b>

**CROSS REFERENCES**

Restrictions on power to tax - see Tax Enabling Act Sec. 2(1)  
(53 P.S. Sec. 6902(1))  
Limit of tax - see Local Tax Enabling Act Sec. 8(5)  
(53 P.S. Sec. 6908(5))

**357.01 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, 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. Section 8101-D et seq.  
(Ord. 2750. Passed 12-15-86.)

**357.02 DEFINITIONS.**

(a) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent's estate.

(b) "Corporation" means 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.

(c) "Document" means any deed, instrument or writing which conveys, transfers, devises, vests, confirms or evidences any transfer or devise 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 years, or instruments which solely grant, vest or confirm a public utility easement. "Document" also includes a declaration of acquisition required to be presented for recording under Section 357.07.

(d) "Family farm corporation" means 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:

- (1) Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
- (2) 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;
- (3) Fur farming;
- (4) Stockyard and slaughterhouse operations; or
- (5) Manufacturing or processing operations of any kind.

(e) "Members of the same family" means any individual, such as 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.

(f) "Person" means 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, includes the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

(g) "Real estate" means:

- (1) All lands, tenements or hereditaments within the Borough, 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 interest which by custom, usage or law pass with conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant;
- (2) A condominium unit;
- (3) A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

(h) "Real estate company" means 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 or fewer persons and which:

- (1) Derives sixty percent (60%) or more of its annual gross receipts from the ownership or disposition of real estate; or
- (2) 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.

(i) "Title to real estate" means:

- (1) 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
- (2) 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 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

(j) "Transaction" means the making, executing, delivering, accepting, or presenting for recording of a document.

(k) "Value" means:

- (1) 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 the 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;
- (2) 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 tax base calculations;

- (3) In the case of an easement or other interest in real estate the value of which is not determinable under subsection (k)(1) or (2), the actual monetary worth of such interest; or
- (4) 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. (Ord. 2750. Passed 12-15-86.)

### **357.03 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 days of acceptance of such document or within thirty 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 whereon the date of the payment of the tax, 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. Section 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 under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate and such one-half rate shall become effective without any action on the part of the Borough provided, however, that the Borough and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under "The Local Tax Enabling Act."

(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. (Ord. 2750. Passed 12-15-86.)

### **357.04 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. (Ord. 2750. Passed 12-15-86.)

**357.05 EXCLUDED TRANSACTIONS.**

The tax imposed by Section 357.03 shall not be imposed upon:

- (a) A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments provided the reconveyance is made within one year from the date of condemnation.
- (b) A document which the Borough is prohibited from taxing under the Constitution or statutes of the United States.
- (c) A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.
- (d) A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- (e) A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
- (f) A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister of 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 year shall be subject to tax as if the grantor were making such transfer.
- (g) A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- (h) A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- (i) A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- (j) A transfer for no or nominal actual consideration from trustee to successor trustee.

- (k) A transfer 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.
- (l) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article.
- (m) A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.
- (n) A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
- (o) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if: 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.
- (p) A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- (q) Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- (r) A transfer to a conservancy which possesses a tax-exempt status pursuant to Section 501 (c) (3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. Section 501 (c) (3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open-space opportunities.
- (s) A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least seventy-five percent (75%) of each class of the stock thereof.

- (t) A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
- (u) A transaction wherein the tax due is one dollar (\$1.00) or less.
- (v) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

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. (Ord. 2750. Passed 12-15-86.)

#### **357.06 DOCUMENTS RELATING TO ASSOCIATIONS OR CORPORATIONS AND MEMBERS, PARTNERS, STOCKHOLDERS OR SHAREHOLDERS THEREOF.**

Except as otherwise provided in Section 357.05, 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. (Ord. 2750. Passed 12-15-86.)

#### **357.07 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 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 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose. (Ord. 2750. Passed 12-15-86.)

#### **357.08 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 the 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.  
(Ord. 2750. Passed 12-15-86.)

#### **357.09 EXTENSION OF LEASE.**

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.  
(Ord. 2750. Passed 12-15-86.)

#### **357.10 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 such sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax. (Ord. 2750. Passed 12-15-86.)

#### **357.11 DUTIES OF RECORDER OF DEEDS.**

(a) As provided in 16 P.S. Section 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 based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Borough.

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

(c) On or before the tenth of each month, the recorder shall pay over to the Borough all local realty transfer taxes collected, less two percent (2%) for use of the County, together with a report containing the information as required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The two percent (2%) 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 re-record the deed or record the additional realty transfer tax form only when both the State and local amounts and a re-recording or recording fee has been tendered. (Ord. 2750. Passed 12-15-86.)

### **357.12 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 subsection shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article. (Ord. 2750. Passed 12-15-86.)

### **357.13 UNLAWFUL ACTS.**

No person shall do any of the following:

- (a) Accept or present for recording or cause to be accepted or presented for recording any document, without the full amount of tax thereon being duly paid; or,
- (b) Make use of any documentary stamp to denote payment of any tax imposed by this article without cancelling such stamp as required by this article or as prescribed by the Borough; or,
- (c) Fail, neglect or refuse to comply with or violate the rules and regulations prescribed, adopted and promulgated by the Borough under the provisions of this article; or,
- (d) Fraudulently cut, tear or remove from a document any documentary stamp; or,
- (e) Fraudulently affix to any document upon which tax is imposed by this article any documentary stamp which has been cut, torn or removed from any other document upon which tax is imposed by this article, or any documentary stamp of insufficient value, or any forged or counterfeited stamp, or any impression of any forged or counterfeited stamp, die, plate or other article; or,

- (f) Willfully remove or alter the cancellation marks of any documentary stamp, or restore any such documentary stamp, with intent to use or cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale, or give away any such altered or restored stamp to any person for use, or knowingly use the same; or,
- (g) Knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which tax is imposed by this article; provided, that the possession of such stamps shall be prima facie evidence of an intent to violate the provisions of this subsection; or
- (h) Knowingly or willfully prepare, keep, sell, offer for sale, or have in his possession, any forged or counterfeited documentary stamps; or,
- (i) Make a false statement of value or declaration of acquisition, when he does not believe the statement or declaration to be true. (Ord. 2750. Passed 12-15-86.)

**357.99 PENALTY.**

(a) Any person violating any of the provisions of Section 357.13 shall be guilty of a summary offense, and, upon conviction thereof, shall be sentenced to pay a fine of not more than three hundred dollars (\$300.00) and costs of prosecution, or to undergo imprisonment of not more than thirty days, or both, in the discretion of the court.

(b) 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.

(c) 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 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.

(d) The tax imposed by this article shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, lying, being, and situated, wholly or in part within the boundaries of the Borough, 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, such lien shall begin at the time when the tax under this article, is due and payable, and continue until discharged by payment, or in accordance with the law, and the Solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Allegheny County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. Section 7101 et seq., its supplements and amendments.

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

(f) Council is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. Section 8101-C et seq. are incorporated into and made a part of this article. (Ord. 2750. Passed 12-15-86.)

**ARTICLE 361**  
**Mercantile License Tax**

<b>361.01</b>	<b>Definitions.</b>	<b>361.07</b>	<b>Payment.</b>
<b>361.02</b>	<b>Levy and collection of tax.</b>	<b>361.08</b>	<b>Powers and duties of the collector.</b>
<b>361.03</b>	<b>License; fees.</b>	<b>361.09</b>	<b>Suit on collection; interest.</b>
<b>361.04</b>	<b>Imposition and rate of tax.</b>	<b>361.10</b>	<b>Rules and regulations.</b>
<b>361.05</b>	<b>Computation of volume of business.</b>	<b>361.99</b>	<b>Penalty.</b>
<b>361.06</b>	<b>Returns.</b>		

**CROSS REFERENCES**

Power to tax - see Local Tax Enabling Act Sec. 2  
(53 P.S. Sec. 6902)

Limit of tax - see Local Tax Enabling Act Sec. 8(2)  
(53 P.S. Sec. 6908(2))

Audits - see Local Tax Enabling Act Sec. 12  
(53 P.S. Sec. 6912)

Rules and regulations - see Appendix C

**361.01 DEFINITIONS.**

The following words and phrases when used in this article shall have the meanings as ascribed to them in this section unless the context clearly indicates a different meaning:

- (a) "Person" means any individual, partnership, limited partnership, association or corporation.
- (b) "Wholesale dealer" or "wholesale vendor" means any person who sells to dealers in, or vendors of, goods, wares and merchandise and to no other person, but includes any merchandise broker, factor and commission merchant.
- (c) "Retail dealer" or "retail vendor" means any person who is a dealer in or vendor of goods, wares and merchandise who is not a wholesale dealer or vendor.
- (d) "Person", "wholesale dealer", "wholesale vendor", "retail dealer", and "retail vendor", shall not include nonprofit corporations, or associations organized for religious, charitable or educational purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania, or any person vending or disposing of articles of his own growth, production or manufacture for shipment or delivery from the place of growth, production or manufacture thereof.

- (e) "Place of amusement" means any place indoors or outdoors where the general public or a limited or selected number thereof may, upon payment of an established price, attend or engage in any amusement, entertainment, exhibition, contest, recreation, including, among other places, theaters, opera houses, motion picture houses, amusement parks, stadia, arenas, baseball or football parks or fields, skating rinks, circus or carnival tents or grounds, fair grounds, bowling alleys, billiard or pool rooms, shuffleboard rooms, riding academies, golf courses, bathing and swimming places, dance halls, tennis courts archery, rifle or shotgun ranges and other like places. The term does not include any exhibition, amusement, performance or contest conducted by a nonprofit corporation or association organized for religious, charitable or education purposes.
- (f) "License year" means the twelve-month period corresponding to the fiscal year of the Borough.
- (g) "Gross volume of business" includes both cash and credit transactions.
- (h) "Collector" means the Collector of the Borough of White Oak.
- (i) "Temporary, seasonal or itinerant business" means any business that it conducted at one location for less than 180 consecutive calendar days within the taxable year. (Ord. 3043. Passed 12-16-96.)

#### **361.02 LEVY AND COLLECTION OF TAX.**

For the ensuing calendar year of 1997 and annually thereafter, the Borough hereby imposes a mercantile tax in the manner and at the rates hereinafter set forth. (Ord. 3043. Passed 12-16-96.)

#### **361.03 LICENSE; FEES.**

Every person desiring to continue to engage in, or hereafter to begin to engage in, the business of wholesale or retail vendor, or dealer in goods, wares and merchandise and any person conducting a restaurant or other place where food, drink, or refreshments are sold, or place of amusement in the Borough, shall, on or before January 31, of the license year or prior to commencing business in the license year, procure a mercantile license for his place of business, or if more than one, for each of his places of business in the Borough, from the Secretary of the Borough, who shall issue the same upon payment of five dollars (\$5.00) for a wholesale or retail license, and five dollars (\$5.00) for a wholesale and retail license for his place of business or if more than one, for each of his places of business, for the license year. Such license shall be conspicuously posted at the place of business, or each of the places of business, of every such person at all times. (Ord. 3043. Passed 12-16-96.)

#### **361.04 IMPOSITION AND RATE OF TAX.**

Every person engaging in any of the following occupations or businesses in the Borough shall pay a mercantile license tax for the year 1997, and annually thereafter at the rate set forth:

- (a) Wholesale vendors or dealers in goods, wares and merchandise at the rate of three-fourths of a mill on ninety percent (90%) of the annual gross business receipts transacted by him. In the case of brokers, the term gross business means "gross commissions earned".
- (b) Retail vendor, or dealers in goods, wares and merchandise, all persons engaged in conducting restaurants or other places where food, drink or refreshments are sold, and all persons conducting places of amusements, at the rate of one and one-half mills on ninety percent (90%) of the annual gross business receipts transacted by him.

- (c) Wholesale and retail vendors or dealers in goods, wares and merchandise at the rate of three-fourths of a mill on ninety percent (90%) of the annual gross wholesale business receipts transacted by him, and one and one-half mills on ninety percent (90%) of the annual gross retail business receipts transacted by him.
- (d) No tax shall be levied on the dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as a trade-in or as part payment for other goods, wares and merchandise except to the extent that the resale price exceeds the trade-in allowance.
- (e) The Tax imposed by this article shall apply to a maximum of twelve million dollars (\$12,000,000) of annual gross business receipts before the computation of ninety percent (90%) is made thereon. (Ord. 3043. Passed 12-16-96.)

### **361.05 COMPUTATION OF VOLUME OF BUSINESS.**

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

(b) Every person subject to the payment of the tax hereby imposed who has commenced or who commences business less than one full year prior to the beginning of the license year shall compute his annual gross volume of business for such license year in the manner following:

A monthly average of business during such period shall be ascertained by dividing the gross volume of business by the number of months in business and the monthly average shall be multiplied by twelve to arrive at the taxable gross volume of business.

(c) Every person subject to the payment of the tax hereby imposed, who commences his business subsequent to the beginning of the license year, shall compute his gross volume of business for the license in the manner following:

Gross volume shall be computed from the date of commencing business to November 30, of the current taxable year, and this gross volume divided by the number of months in business shall be the monthly average. Such monthly average multiplied by the number of months in business for the current taxable year shall provide the taxable gross volume of business.

Any business commencing during the month of December shall be considered as a temporary business for the first year.

(d) Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal or itinerant by its nature, shall compute his actual gross volume of business upon the actual gross amount of business transacted by him during such license year. (Ord. 3043. Passed 12-16-96.)

### **361.06 RETURNS.**

(a) Every return shall be made upon a form furnished by the Collector. Every person making a return shall certify the correctness thereof.

(b) Every person subject to the tax imposed by this article who has commenced his business at least one full year prior to the beginning of the license year shall on or before the fifteenth day of May, following, file with the Collector a return setting forth his name, his business and business address, and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, and the amount of the tax.

(c) Every person subject to the tax imposed by this article who has commenced his business less than one full year prior to the beginning of the license year, shall on or before the fifteenth day of May, next following, file with the Collector a return indicating the gross taxable volume of business and the amount of tax due.

(d) Every person subject to the tax imposed by this article who commences business subsequent to the beginning of the license year, shall, on or before December fifteenth of each year, file a return with the Collector indicating the taxable gross volume of business for the current year, and the amount of tax due.

(e) Every person subject to the payment of the tax imposed by this article who engages in a business temporary, seasonal or itinerant by its nature, shall within thirty days after completing such business, file a return with the Collector setting forth his name, his address and business address, and such information as may be necessary in arriving at the actual gross amount of the business transacted by him during such period and the amount of the tax due. (Ord. 3043. Passed 12-16-96.)

#### **361.07 PAYMENT.**

At the time of filing the return, the person making the same shall pay the amount of the tax shown as due thereon to the Collector. (Ord. 3043. Passed 12-16-96.)

#### **361.08 POWERS AND DUTIES OF THE COLLECTOR.**

(a) The Collector shall 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 received by him from each person paying the tax and the date of such receipt.

(b) The Collector is hereby charged with the administration and enforcement of the provisions of this article, and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the reexamination and correction of returns, and payments alleged or found to be incorrect, or as to payments alleged or found to be incorrect, or as to which an over-payment is claimed, or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right of appeal to the Court of Common Pleas, as in other cases provided.

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

(d) Prior to January 1, of the taxable year, the Collector, or his authorized agent, shall notify licensees of the previous year, and all persons known to be engaged, or engaging in new business, as set forth in Section III that a license must be obtained by January 31, of the taxable year.

(e) Any information gained by any councilman, any other official, employee or agent of the Borough, as a result of any return, investigations, hearings, or verifications required or authorized by this article, shall be confidential, except for official purposes, and except in accordance with proper judicial order, or as otherwise provided by law. Any disclosure of any such information contrary to the provisions of this section shall constitute a violation of this article, the penalty for which, upon conviction before any alderman or magistrate, shall be not more than one hundred dollars (\$100.00) for each offense, and in default of payment of such fine to be imprisoned in Allegheny County Jail for a period not exceeding thirty days for each offense. Any employee or agent of the Borough shall be summarily dismissed from his or her employment for the disclosure of any such information.

(f) The Collector is hereby instructed and authorized to impound all returns, verifications and records that come into his custody through the operation of this article.

(g) The Collector is hereby authorized to compel the production of copies of the taxpayer's federal and/or state income tax returns to verify and determine the gross annual receipts and any other matters relevant to the accuracy of the return. The production of copies of the taxpayer's returns shall include the taxpayer's Schedule C in case of a sole proprietorship, a partnership return in case of a partnership and a corporate return in case of a corporation. (Ord. 3043. Passed 12-16-96.)

#### **361.09 SUIT ON COLLECTION; INTEREST.**

(a) All taxes imposed by this article, together with the penalties imposed under this article, shall be recoverable by the Borough Solicitor as other debts of like amount are recoverable.

(b) If for any reason, the tax is not paid when due, interest at the rate of six percent (6%) per annum on the amount of tax, and an addition penalty of one percent (1%) on the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition be liable for the costs of collection and the interest and penalties herein imposed. (Ord. 3043. Passed 12-16-96.)

#### **361.10 RULES AND REGULATIONS.**

Council shall, from time to time, prepare and approve certain rules and regulations in regard to this article. Such rules or regulations shall be enacted by ordinance or resolution and shall be a part of this article and read in conjunction with it. (Ord. 3043. Passed 12-16-96.)

#### **361.99 PENALTY.**

Whoever makes any false or untrue statement on his return, or who refuses to permit inspection of the books, records or accounts of any business in his custody or control, when the right to make such inspection by the Collector or his authorized agent is requested, and whoever fails or refuses to file a return required under this article, or whoever fails or refuses to procure a mercantile license when so required under this article, or fails to keep his license conspicuously posted at his place of business as required herein, shall upon conviction before any Alderman or Magistrate, be sentenced to pay a fine of not more than one hundred dollars (\$100.00) for each offense, and in default of payment of such fine to be imprisoned in Allegheny County Jail or Allegheny County Workhouse for a period not exceeding thirty days for each offense. (Ord. 3043. Passed 12-16-96.)



**ARTICLE 365**  
**Per Capita Tax**

<b>365.01</b>	<b>Imposition.</b>	<b>365.04</b>	<b>Registration.</b>
<b>365.02</b>	<b>Notice.</b>	<b>365.05</b>	<b>Exemptions.</b>
<b>365.03</b>	<b>Discount.</b>	<b>365.06</b>	<b>Rules and regulations.</b>

**CROSS REFERENCES**

- Power to tax - see Local Tax Enabling Act Sec. 2  
(53 P.S. Sec. 6902)
- Limit of tax - see Local Tax Enabling Act Sec. 8(l)  
(53 P.S. Sec. 6908(1))
- Collection of delinquent taxes - see Local Tax Enabling  
Act Sec. 19 (53 P.S. Sec. 6919)

**365.01 IMPOSITION.**

There is hereby imposed for general Borough purposes, on every adult resident of the Borough eighteen years of age or over, an annual per capita tax of ten dollars (\$10.00) assessed under the authority of Act 511 (The Local Tax Enabling Act). Such tax shall be imposed in accordance with the provisions hereafter set forth.  
(Ord. 2144. Passed 4-19-82.)

**365.02 NOTICE.**

On or before July 1, 1982, (or as soon thereafter as possible), the tax collectors shall send to every adult resident eighteen years of age or over, of the Borough, a notice of the personal tax due from such resident for the year 1982. Such notice may be a part of the general notice sent to the residents of the Borough which notifies the residents of other taxes due and payable; provided, however, that the personal tax shall be listed separate and apart from the property taxes. Provided further, that the failure or omission of the tax collector to send or of any adult to receive such notice, shall not relieve such person from the payment of such tax.  
(Ord. 2144. Passed 4-19-82.)

**365.03 DISCOUNT.**

All taxpayers subject to the payment of per capita tax hereby levied and assessed shall be entitled to a discount of two percent (2%) from the amount of such tax upon making payment of the whole amount thereof within two months after the date of the tax notice. All taxpayers who make payment during the next two months shall pay the amount at face. All taxpayers who shall fail to make payment

of the per capita tax charged against them for four months after date of the tax notice, shall be charged a penalty of five percent (5%), which penalty shall be added to the taxes by the Tax Collector and be collected by him. This tax may be paid in four equal installments if the first installment is paid before the end of the discount period and payment must be made every sixty days thereafter. No discount will be allowed on the installment plan.  
(Ord. 2144. Passed 4-19-82.)

**365.04 Registration.**

(a) Every resident, upon attaining eighteen years of age and every person eighteen years of age or over, becoming a resident of the Borough, shall, within twelve months after the happening thereof, notify the County Assessor, 415 Allegheny County Office Building, Pittsburgh, Pennsylvania, or the Secretary of the Borough or their appointees, of his or her becoming of age or of becoming a resident of the Borough.

(b) Any person failing, within such period, to notify the above-named individuals of the address at which he resides, shall, in addition to the tax levied by the Borough, be liable to a penal sum equal to the tax.  
(Ord. 2144. Passed 4-19-82.)

**365.05 EXEMPTIONS.**

All persons sixty-five years of age or over who are retired or disabled with income from all sources of five thousand dollars (\$5,000) or less and all full-time students with income from all sources of five thousand dollars (\$5,000) or less shall be exempted from paying this tax.  
(Ord. 2144. Passed 4-19-82.)

**365.06 RULES AND REGULATIONS.**

Council may, from time to time, prepare and approve certain rules and regulations in regard to the tax imposed hereunder. Such rules and regulations may be enacted by either ordinance or resolution and shall become part of this article and read in conjunction therewith.  
(Ord. 2144. Passed 4-19-82.)

**ARTICLE 369**  
**Real Property Tax**

<b>369.01</b>	<b>Late payment penalty.</b>	<b>369.05</b>	<b>Rules and regulations.</b>
<b>369.02</b>	<b>Definitions.</b>	<b>369.06</b>	<b>Temporary exemption for new residential construction.</b>
<b>369.03</b>	<b>Limitation of assessment for eligible taxpayers.</b>	<b>369.07</b>	<b>Costs of collection for delinquent real estate tax accounts.</b>
<b>369.04</b>	<b>Participation in limitation of tax assessment program.</b>		

**CROSS REFERENCES**

Tax abatement - see 72 P.S. Sec. 4711-101 et seq.

**369.01 LATE PAYMENT PENALTY.**

The penalty rate for delinquent payment of real property taxes shall be ten percent (10%). (Res. 1569. Passed 4-18-77.)

**369.02 DEFINITIONS.**

(a) "Act 77" means the Act of December 22, 1993, Public Law 529, No. 77, codified as the Allegheny Regional Asset District Law, a. Stat. Ann. tit. 16, Sec. 6101-B et seq.

(b) "Allegheny Regional Asset District Law" See the definition of "Act 77" above.

(c) "Assessment" means the fair market value of property as determined by the Board of Property Assessment, Appeals and Review of Allegheny County.

(d) "Borough" means the Borough of White Oak.

(e) "Council" means the Council of the Borough of White Oak.

(f) "Department of Property Assessment" means the Department of Property Assessment, Appeals, Review and Registry of Allegheny County.

(g) "Eligible taxpayer" means a longtime owner/occupant of a principal residence in White Oak Borough who is:

- (1) A single person aged sixty-five or older during a calendar year in which County real property taxes are due and assessed; or
- (2) Married persons if either spouse is sixty-five or older during a calendar year in which White Oak Borough real property taxes are due and assessed.

(h) "Household Income" means all income received by an eligible taxpayer while residing in his or her principal residence during a calendar year.

(i) "Income" means all income from whatever source derived including, but not limited to, salaries, wages, bonuses, commissions, income from self-employment, alimony, support money, cash public assistance and relief, the gross amount of any pensions or annuities, including railroad retirement benefits, all benefits received under the Federal Social Security Act (except Medicare benefits) all benefits received under State Unemployment Insurance laws and Veteran's Disability Payments, all interest received from the Federal or any state government or any instrumentality or political subdivision hereof, realized capital gains, rentals, workmen's compensation and the gross amount of loss of time insurance benefits, life insurance benefits and proceeds (except the first five thousand dollars (\$5,000) of the total of death benefit payments), and gifts of cash or property (other than transfer by gift between members of a household) in excess of a total value of three hundred dollars (\$300.00), but shall not include surplus food or other relief in kind supplied by a governmental agency or property tax or rent rebate or inflation dividend.

(j) "Longtime owner/occupant" mean any person who for at least ten continuous years has owned or has occupied the same dwelling place as a principal residence and domicile, or any person who for at least five years has owned and occupied the same dwelling as a principal residence and domicile if that person received assistance in the acquisition of the property as part of a government or nonprofit housing program.

(k) "Person" means a natural person.

(l) "Principal residence" means the dwelling place of a person, including the principal house and lot, and such lots as are used in connection therewith which contribute to its enjoyment, comfort and convenience; or a building with a maximum of one commercial establishment and a maximum of three residential units of which one residential unit must be a principal residence of the longtime owner/occupant.

(m) "Senior Citizens Rebate and Assistance Act" means the Act of March 11, 1971, Public Law 104 No. 3, as amended, codified at Pa. Stat. Ann. tit. 72, Sec. 4751-1 et seq. (Ord. 2991. Passed 12-12-94.)

### **369.03 LIMITATION OF ASSESSMENT FOR ELIGIBLE TAXPAYERS.**

All eligible taxpayers in the Borough of White Oak who are longtime owner/occupants shall be entitled to have the assessment on his or her principal residence maintained at or limited to the amount determined by the Department of Property Assessment for the calendar year 1993 if the eligible taxpayer meets the household income limits for qualification for any amount of property tax rebate under the Senior Citizens Rebate Assistance Act. (Ord. 2991. Passed 12-12-94.)

### **369.04 PARTICIPATION IN LIMITATION OF TAX ASSESSMENT PROGRAM.**

Any person paying property taxes in the Borough of White Oak may apply to participate in the assessment limitation program authorized under this article. In order to be eligible to participate in the program, the person must meet the following conditions:

- (a) The person must be a single person aged sixty-five or older; or be married persons with either spouse being sixty-five years of age or older.
- (b) The person must be a longtime owner/occupant.
- (c) The property owned by the person must be the principal residence and domicile of the resident.
- (d) The person's household income must qualify him or her to receive any amount of property tax rebate under the Senior Citizens Rebate and Assistance Act.  
(Ord. 2991. Passed 12-12-94.)

### **369.05 RULES AND REGULATIONS.**

The Department of Property Assessment and the Borough's Manager shall have the authority to issue rules and regulations with respect to the administration of the limitation of tax assessment program established under this article. Such rules and regulations shall include, but not be limited to, reasonable proof of household income, proof of residence, proof of qualification for or receipt of a property tax rebate under the Senior Citizens Rebate and Assistance Act and any other reasonable requirements and conditions as may be necessary to operate the tax assessment limitation program. (Ord. 2991. Passed 12-12-94.)

### **369.06 TEMPORARY EXEMPTION FOR NEW RESIDENTIAL CONSTRUCTION.**

(a) Definitions. As used in this section, the following words and phrases shall have meaning set forth below:

- (1) "County" means the County of Allegheny.
- (2) "Board" means the Board of Property Assessment, Appeals and Review of Allegheny County.
- (3) "Dwelling Unit" means a house, apartment, townhouse, condominium or group of rooms intended for occupancy as separate living quarters by family or other groups or a person living alone, containing a kitchen or cooking equipment for the exclusive use of the occupants. Dwelling unit shall not include any units occupied by persons receiving a subsidy or a portion of their rent or mortgage payment under a federally subsidized program providing for rental units, but not limited to, Section 804, Housing and Community Development Act of 1974, P.L. 93-393; Section 236; U.S. Housing Act of 1937; Section 202, Housing Act of 1959.
- (4) "Residential Unit" has the same meaning as "Dwelling Unit" above.
- (5) "Type of Unit" means a house, apartment, duplex, semi-detached house or other dwelling place.
- (6) "Person" means any individual, corporation, association, partnership or non-profit corporation, other than a developer, sponsor, real estate investment trust or other investor receiving subsidy or aid under a federal program who owns or develops new residential units or who is liable for real estate taxes on new residential construction.
- (7) "Actual Cost" means the amount of money expended in the construction of a new residential unit or units.
- (8) "Assessed Valuation" means the worth assigned to a residential unit or units or dwelling unit as certified to the County by the Board of Property Assessment, Appeals and Review. The term "Assessed Valuation" shall not apply to the worth assigned to land exclusive of buildings.
- (9) "Unimproved Residential Property" means any unimproved real estate owned by a person which is or may be zoned in accordance with the Pennsylvania Municipalities Planning Code for residential use.  
(Ord. 3086. Passed 3-16-98.)

(b) Boundaries. New Construction. Pursuant to the public hearing, Council does hereby determine that all unimproved residential property located within the geographic confines of White Oak Borough shall be eligible for the new residential construction exemption or abatement granted under this section. (Ord. 3090. Passed 5-18-98.)

(c) Exemption for Residential Construction. Persons responsible or liable for the payment of taxes due on residential units erected or constructed on unimproved residential properties in the Borough of White Oak may apply for and receive tax exemption on new residential construction in accordance with procedures and schedules herein provided.

- (1) Any exemption from taxes shall be limited to the assessed valuation attributable to the actual cost of construction of the new residential unit. No maximum cost per unit cap shall be imposed on the exemption for assessed valuation attributable to the actual cost of construction of new residential units erected on unimproved residential property.
- (2) Any exemption from taxes on the eligible amount of assessed valuation attributable to new construction shall commence on the tax year immediately following the year in which the building permit is issued, providing that an assessment valuation attributable to the new construction has been certified by the Board. If no such certification has been made in the year following issuance of the building permit, then exemption shall commence in the first year in which real property taxes are assessed and imposed on such residential units following construction.
- (3) The length of the time for the abatement of White Oak Borough taxes attributable to the increased valuation due to the new construction shall not exceed two years.
- (4) The abatement for the first year in which the abatement is in effect shall be one hundred percent (100%) of the assessed valuation attributable to the new construction and the abatement for the second and final year shall be fifty percent (50%) of the assessed valuation attributable to the new construction.
- (5) If a residential unit is granted exemption from taxes under this chapter, that property shall not be considered as a factor in assessing the value of other properties in the same area during the period in which the exemption exists.

(d) Procedure for Obtaining Exemption. At the time a person secures sewer service in his/her name for the new residential unit for which that person intends to request exemption from taxation, that person shall apply to the Borough of White Oak for exemption of the taxes that would otherwise be imposed on the basis of the assessed valuation of that property in the following manner; within six (6) months of establishing the sewer service.

- (1) At the time, the person secures sewer service, a form prescribed by the Borough of White Oak, shall be mailed to the property owner by Certified Mail. Said completed form must be returned to the Borough within six (6) months of the date of establishing the sewer service. Failure to return completed form within that time period will result in the request for tax exemption being denied.  
(Ord. 3361. Passed 6-21-04.)
- (2) The request for exemption must be in writing and certified on that form setting forth the following information:
  - A. The date the building permit was issued for the said construction.
  - B. The number and type of residential units for which exemption is requested.

- C. The summary of the plan for the construction of the new residential units.
- D. The actual cost of the new construction.
- (3) When the new construction has been completed and the Board has assessed the new construction and the Borough has been notified of the same, the Borough will then calculate the amount of assessment eligible for tax exemption under this section.
- (4) The Borough will then notify the person and Borough's Tax Collector of the amount of the increase in assessment attributable to the new construction, and the amount of the assessment eligible for exemption under this section.
- (5) Appeals from the assessment may be taken by the person or by the local taxing authorities as provided by law.

(e) Transferability. The exemption from taxes authorized by this section shall be upon the property exempted and shall not terminate upon the sale, exchange or other alienation of such property unless otherwise provided.

(f) Severability. The provisions of this section shall be severable. If any provisions of this section shall be held to be illegal, invalid or unconstitutional by a final decision of a court of competent jurisdiction, the other provisions of the section shall remain in full force and effect.

(g) Effective Date. The provisions of this section shall become effective on March 18, 2003 and remain in effect until March 18, 2008.  
(Ord. 3308. Passed 8-18-03.)

#### **369.07 COSTS OF COLLECTION FOR DELINQUENT REAL ESTATE TAX ACCOUNTS.**

(a) For every delinquent claim, charge tax, assessment, levy or obligation owed to the Borough of White Oak, there shall be added to such claim, charge tax, assessment, levy or obligation such attorney's fees, and expenses incurred in the collection process subsequent to proper notification to taxpayers of the intent to impose attorney's fees on delinquent obligations. Such additional charges shall be collected in addition to such interest and penalties as are allowed by law. They shall further be collected in the same manner and with the full authority as other municipal claims of any nature, and shall be deemed to be a municipal claim and collectable and lienable as such.

(b) Such fees shall be reasonable and the same are hereby established in a fee rate as attached hereto and made a part hereof as Schedule "A". Said schedule of fees is hereby deemed to be reasonable, fair and necessary in order to allow the Borough to collect such sums due. This schedule may be amended by ordinance.

(c) Any person or entity empowered to collect sums on behalf of the Borough is directed to add such fees as are incurred to the extent allowed and set forth on Schedule "A". Such sums collected pursuant to this section shall be in addition to any tax, penalty, interest, costs or fees already part of the delinquent account or assessment.

(d) Attorney fees incurred to the extent set forth on Schedule "A" shall be added to all unpaid real estate tax claims of any nature arising or imposed subsequent to the date of adoption of this section, or which become delinquent or are re-determined to be delinquent subsequent to this date. Prior to the time when such fees are added to any underlying claim, the tax collector shall so notify the taxpayer by sending such notice to the taxpayer's last known address by mailing notices in the manner prescribed by the Act of the Pennsylvania General Assembly, known as Act 20 of 2003.

(Ord. 3350. Passed 4-19-04)

### SCHEDULE "A"

#### SCHEDULE OF LEGAL FEES Delinquent Tax and Municipal Claims

1.	Prepare and mail thirty-day (30) delinquent notice	\$50.00
2.	Prepare District Justice Complaint	\$75.00
3.	Attend District Justice Hearing.	\$250.00
4.	Attend Constable Execution Sale.	\$350.00
5.	Prepare Arbitration Complaint.	\$150.00
6.	Prepare General Docket Proceedings.	\$375.00
7.	Attend Trial.	\$350.00
8.	Negotiate and Prepare Payment Plan Agreement.	\$75.00
9.	Prepare Writ of Scire Facias Sur Tax Lien in Furtherance of Sheriff Tax Sale.	\$600.00
10.	Prepare Reissue Writ.	\$125.00
11.	Title Search for Sheriff Sale.	\$150.00
12.	Enter Default Judgment.	\$150.00
13.	Issue Writ of Execution.	\$250.00
14.	Attend Sheriff Sale.	\$250.00
15.	Non-litigation Legal Work.	\$80.00/hr
16.	Litigation Legal Work.	\$100.00/hr
17.	All Other Clerical Work Not Itemized Above.	\$50.00/hr

**ARTICLE 373  
Admissions Tax**

<p><b>373.01</b> Enacted.  <b>373.02</b> Rate.  <b>373.03</b> Form of payment.  <b>373.04</b> Collection.  <b>373.05</b> Returns.</p>	<p><b>373.06</b> Administration and enforcement.  <b>373.07</b> Late payments.  <b>373.99</b> Penalty.</p>
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**CROSS REFERENCES**

Taxing power - see Local Tax Enabling Act (53 P.S. Sec. 6900)

**373.01 ENACTED.**

There shall be levied, assessed, collected and paid, an amusement tax in the Borough upon every form of entertainment, diversion, sport, recreation, pastime, including specifically by way of illustration, skating, bathing, swimming, pool and billiard rooms, golfing, bowling, riding, theatrical or operatic performances, vaudeville, circuses, carnivals, side shows, and all forms of entertainment at fair grounds and amusement parks, athletic contests, including wrestling, boxing, football, basketball, baseball games, tennis, hockey, archery, shooting, dancing, and all other forms of amusement, athletic event, diversion, sport, recreation or pastime, shows, exhibitions, contests, displays and games, excepting admission to motion picture theaters and educational, religious, charitable and fire company exhibitions or shows.  
(Ord. 1554. Passed 12-30-76.)

**373.02 RATE.**

The tax shall be assessed against and paid by those persons attending the entertainment, diversion, sport, recreation, pastime, amusement or athletic event and shall be at the rate of five percent (5%) of all amounts paid for admission.  
(Ord. 1067. Passed 11-18-68.)

**373.03 FORM OF PAYMENT.**

The tax shall be five percent (5%) of the amount paid for admission to any place, whether paid in the form of a ticket, donation, subscription, or other form of admission arrangement. (Ord. 1067. Passed 11-18-68.)

**373.04 COLLECTION.**

Every person receiving any payment for admission subject to the tax imposed under this article shall collect the amount thereof from the person making such payment and pay the same to the Borough Secretary. The person receiving a payment for such admission shall make a return under oath in duplicate in such manner and containing such information as the Borough Secretary by regulation may prescribe. (Ord. 1067. Passed 11-18-68.)

**373.05 RETURNS.**

The returns required to be filed under this article shall be made monthly on or before the fifteenth day of the next month, and at the same time, there shall be paid by the person making the return the amount of tax collected as shown by such return. (Ord. 1067. Passed 11-18-68.)

**373.06 ADMINISTRATION AND ENFORCEMENT.**

The Borough Secretary is hereby charged with the administration and enforcement of the provisions in this article and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the re-examination and correction of returns and payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred. (Ord. 1067. Passed 11-18-68.)

**373.07 LATE PAYMENTS.**

(a) All taxes not paid when due shall bear interest at the rate of one-half percent (1/2%) per month from the fifteenth day of the month in which the taxes are due and payable until paid.

(b) All such taxes shall be recoverable by the Borough Solicitor as other debts of like amounts are now by law recoverable. (Ord. 1067. Passed 11-18-68.)

**373.99 PENALTY.**

Any person violating any of the provisions or requirements of this article or failing, neglecting or refusing to pay any tax, penalties or interest imposed under this article; or refusing or neglecting to make any return required hereunder; or refusing to permit the Borough Secretary or any other person authorized by this article to examine his books, records and papers; or knowingly making any incomplete, false or fraudulent returns; or attempting to do anything whatever to avoid the payment of the whole or any part of the tax imposed under this article, shall be liable to a fine or penalty not exceeding one hundred dollars (\$100.00) for each and every offense, and the costs of prosecution thereof, and in default of payment thereof, to undergo imprisonment in the Allegheny County Jail for a period not exceeding thirty days; provided that such fine or penalty shall be in addition to any other penalty imposed by any other section of this article. (Ord. 1067. Passed 11-18-68.)

**ARTICLE 377**  
**Tax Relief**

<b>377.01 Definitions.</b>	<b>377.04 Rules and regulations.</b>
<b>377.02 Limitation of assessment for eligible taxpayers.</b>	<b>377.05 Appeals.</b>
<b>377.03 Participation in the Property Tax Assessment Relief Program.</b>	<b>377.06 Severability.</b>

**377.01 DEFINITIONS.**

(a) "Act 77" means the Act of December 22, 1993, Public Law 529, No. 77, codified as the Allegheny Regional Asset District Law, Pa. Stat. Ann. Tit. 16, §6101-B et seq.

(b) "Allegheny Regional Asset District Law." See the definition of "Act 77" above.

(c) "Board" means the Council of the Borough of White Oak.

(d) "Board of Property Assessment" means the Department of Property Assessment, Appeals and Review of Allegheny County as set forth in Chapter 207 of the Administrative Code of Allegheny County.

(e) "County" means Allegheny County, Pennsylvania.

(f) "Eligible Taxpayer" means a longtime owner/occupant of a principal residence in the Borough of White Oak who is:

- (1) A single person aged sixty (60) or older during a calendar year in which Allegheny County and White Oak Borough real estate property taxes are due and payable and whose household income does not exceed thirty thousand dollars (\$30,000.00); or
- (2) Married persons if either spouse is sixty (60) or older during a calendar year in which Allegheny County and White Oak Borough real estate property taxes are due and payable whose combined household income does not exceed thirty thousand dollars (\$30,000.00); or

- (3) An unmarried widow or widower age fifty (50) or older during the calendar year in which County real property taxes are due and payable and whose household income does not exceed thirty thousand dollars (\$30,000.00); or
- (4) A permanently disabled person aged eighteen (18) or older during the calendar year in which County real property taxes are due and payable and whose household income does not exceed thirty thousand dollars (\$30,000.00).

(g) "Household Income" means all income received by an eligible taxpayer while residing in his or her principal residence during a calendar year.

(h) "Income" means all income from whatever source derived, including but not limited to, salaries, wages, bonuses, commissions, income from self-employment, alimony, support money, cash public assistance and relief, the gross amount of any pensions or annuities including railroad retirement benefits, all benefits received under the Federal Social Security Act (except Medicare benefits), all benefits received under state unemployment insurance laws and veterans' disability payments, all interest received from the federal or any state government, or any instrumentality or political subdivision thereof, realized capital gains, rentals, workers' compensation and the gross amount of loss of time insurance benefits, life insurance benefits and proceeds (except the first five thousand dollars (\$5,000) of the total of death benefit payments), and gifts of cash or property (other than transfers by gift between members of a household) in excess of a total value of three hundred dollars (\$300.00), but shall not include surplus food or other relief in kind supplied by a governmental agency or property tax or rent rebate or inflation dividend.

(i) "Longtime Owner/Occupant" means any person who for at least ten (10) continuous years has owned or has occupied the same dwelling place as a principal residence and domicile, or any person who for at least five (5) years has owned and occupied the same dwelling as a principal residence and domicile if that person received assistance in the acquisition of the property as part of a government or non-profit housing program.

(j) "Person" means a natural person.

(k) "Primary Personal Residence" means the dwelling place and so much of the land or lots surrounding it as is reasonably necessary for use of the dwelling as a home, owned and occupied by a person. The term primary personal residence shall also include premises occupied by reason of ownership in a cooperative housing corporation, mobile homes which are assessed as realty for local property tax purposes and the land upon which the mobile home is situated, and other similar living accommodations, as well as part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built. It shall also include premises occupied by a person and located on land owned by a non-profit incorporated association, of which the person is a member, if the person is required to pay a pro rata share of the property taxes levied against the association's land. It shall also include premises occupied by a person if he is required by law to pay a property tax by reason of his or her ownership or rental (including a possessory interest) in the dwelling, the land, or both. An owner includes a person in possession under a contract of sale, deed of trust, life estate, joint tenancy or tenancy in common or by reason of status of descent and distribution.

(l) "Senior Citizens Rebate and Assistance Act" means the Act of March 11, 1971, Public Law 104, No. 3, as amended, codified at Pa. Stat. Ann. Tit. 72, §4751-1 et seq.

(m) "Program" See the definition of "Special Tax Provision" below.

(n) "Special Tax Provisions" means a program of tax relief for eligible taxpayers authorized under Act 77, as amended, consisting of:

- (1) A discount on the payment of White Oak Borough real property taxes; and
- (2) An installment payment program for the payment of White Oak Borough real property taxes. (Ord. 3220. Passed 5-21-01.)

### **377.02 LIMITATION OF ASSESSMENT FOR ELIGIBLE TAXPAYERS.**

(a) All eligible taxpayers in White Oak Borough who are longtime owner/occupants of principal residence shall be deemed a separate class of subjects of taxation and shall be entitled to the benefit of the Special Tax Provisions of this Article.

(b) All eligible taxpayers in White Oak Borough who are longtime owner/occupants shall be entitled to apply for and receive a discount of twenty-five percent (25%) on the gross or face amount of White Oak Borough real property taxes then due and owing during a tax year on an eligible taxpayer(s) primary personal residency; and this discount shall not be in derogation of the allowable two percent (2%) discount permitted to all taxpayers for early payment.

(c) All eligible taxpayers in White Oak Borough who are longtime owner/occupants shall be entitled to pay the gross or face amount of White Oak Borough real property taxes due and owing during any tax year in two (2) equal installments payments. The Treasurer shall establish the respective dates for all eligible taxpayers to make an installment payment of Allegheny County real property taxes. (Ord. 3220. Passed 5-21-01.)

### **377.03 PARTICIPATION IN THE PROPERTY TAX ASSESSMENT RELIEF PROGRAM.**

Any person paying property taxes in the Borough of White Oak may apply to either the office of the Treasurer of Allegheny County or to the Office of Property Assessment of Allegheny County for certification as a participant in the assessment relief program authorized under this Article. In order to be eligible to participate in the program, the person must meet the following conditions:

- (a) The person must be a single person aged sixty (60) years of age or older; or be married persons with either spouse being sixty (60) years of age or older.
- (b) The person must be a longtime owner/occupant.
- (c) The property owned by the person must be the principal residence and domicile of the resident.
- (d) The person's household income must not exceed thirty thousand dollars (\$30,000.00). (Ord. 3220. Passed 5-21-01.)

### **377.04 RULES AND REGULATIONS.**

The Allegheny County Department of Property Assessment and the Borough's Manger shall have the authority to issue rules and regulations with respect to the administration of the limitation of tax assessment program established under this Article. Such rules and regulations shall include, but not be limited to, reasonable proof of household income, proof of residence, proof of qualification for or receipt of a property tax rebate under the Senior Citizens Rebate and Assistance Act and any other reasonable requirements and conditions as may be necessary to operate the tax assessment limitation program. (Ord. 3220. Passed 5-21-01.)

**377.05 APPEALS.**

An appeal from any determination hereunder by the Office of the Treasurer or the Office of Property Assessment shall be in accordance with the Pennsylvania Local Agency Law. (Ord. 3220. Passed 5-21-01.)

**377.06 SEVERABILITY.**

(a) The provisions of the Tax Assessment Relief Program shall be severable. If any provisions, sentence, clause, section, or part thereof is determined to be illegal, invalid, unconstitutional, or inapplicable to any person or circumstance by a court of law of competent jurisdiction, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts thereof, or their application to other persons or circumstances. It is hereby declared to be the legislative intent that the Tax Assessment Relief Program would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or parts thereof had not been included therein, and if the person or circumstance to which the Tax Assessment Relief Program or any part thereof is inapplicable, had been specifically exempted therefrom.

(b) If any provision of this Article shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Article, which shall be in full force and effect. (Ord. 3220. Passed 5-21-01.)

APPENDIX A  
RULES AND REGULATION FOR OCCUPATION TAX

INTRODUCTION

The Rules and Regulations herein have been prepared as a supplement, addition and interpretation of the Occupation Tax Ordinance. Consequently, these regulations are not independent but should be read and interpreted in conjunction with Article 349. Therefore the content of Article 349 is not repeated in these regulations, except where considered necessary for clarification.

ARTICLE ONE

EXCLUSIONS FROM DEFINITION OF OCCUPATION

The following activities, employment, and jobs are not considered occupations as defined in Section 349.01(b):

101. Isolated employment or isolated self-employment by any individual does not constitute a substantial exercise of the privilege of engaging in an occupation and consequently is not included within the scope of "occupation" as defined. Isolated employment or self-employment means any employment that is so trivial and inconsequential that to levy a tax of ten dollars (\$10.00) on the occupation would be confiscatory. An example of isolated employment is the activity of working on the election board or related employment.

Isolated employment also includes occupations performed by itinerants, where contact with the Borough is nonrecurring. Examples of this type of isolated employment are occupations with traveling shows, occasional attendance at business meetings, etc.

102. Compensated employment, involuntarily imposed by law, is not a taxable occupation.

103. Transportation workers whose activity within the Borough is insubstantial in relation to activity outside the Borough do not perform an occupation as defined in Article 349.

104. Active service in the armed forces is not considered a taxable occupation.

ARTICLE TWO

DUTIES OF EMPLOYERS

201. Employers will report their withheld tax due on Form OT-1, accompanied by Copy A, Form OT-2 for each employee from whom the tax has been withheld. Copy B, Form OT-2, is given to the employee as his "Evidence of Deduction Certificate," and Copy C, Form OT-2 is to be retained by the employer.

202. Although Section 349.02 provides that the tax is imposed only on occupations engaged in by individuals deriving one thousand dollars (\$1,000) or more annually, the employer is nevertheless required to withhold the tax from all employees performing an occupation in accordance with Section 349.04 and 349.05, regardless of earnings. The intent of this paragraph is to provide that an employer will not wait until an employee accumulates one thousand dollars (\$1,000) of earnings before deducting the tax, but instead will deduct the tax in the first quarter of employment in a calendar year.

203. Employers are not required to withhold the tax from individuals otherwise subject to the tax who first began employment with the employer on or after November 1, of the taxable year.

Such individuals earning one thousand dollars (\$1,000) or more in a calendar year will be required to file their own tax return, Form OT-3, in the month of January following the calendar year in which the earnings were one thousand dollars (\$1,000) or more. The one thousand dollars (\$1,000) base applies to an individual's total earnings in all communities, and is not restricted to his earnings in White Oak.

204. In situations as described in Paragraph 203 above, and in other certain cases, employers may not be required to withhold the ten dollars (\$10.00) Occupation Tax or may fail or otherwise be unable to withhold the tax.

In one type of circumstance, employees may have terminated employment before the employer was able to withhold the tax. In other cases, employees may have worked only one or two days during the reporting period or otherwise earned only an insignificant wage. In the latter circumstance, the amount paid may have been too little to enable the employer to deduct all or part of the tax.

In other cases the employer will not be required to withhold the tax because of reciprocity arrangements. (See Article 6.)

In any case, it will be necessary for the employer to account for all employees from whom he has not withheld the tax. The employer, in these cases, must submit the following information as to these employees, with his OT-1:

- a. Name and address of employee.
- b. Gross wages earned in period.
- c. Reason tax was not withheld.

This information may be submitted on an attached schedule on a plain sheet of paper, or the employer may request a special form for this purpose from the tax office.

If the above information is not submitted, it will be assumed that the employer's OT-1 includes the total of all his employees engaged in an occupation in White Oak. Upon audit, if it is determined that the employer did not disclose the names of the employees from whom he was unable to withhold the tax, the employer may be liable for the total tax from all of these employees.

### ARTICLE THREE

#### PAYMENT OF THE TAX

301. Tax payments shall be made in one sum, and not in installments, regardless of the method used for withholding by the employer. For example, if an employer has decided to withhold the tax in installments from the employee or employees, and if the employer has not withheld the full ten dollars (\$10.00) before the tax reporting date, the employer must nevertheless remit the full ten dollars (\$10.00) to the tax office.

302. Returns will be due on the dates indicated in Article 349 and these Regulations in accordance with the following rules:

- a. Returns paid at the Tax Collector's Office are due on the dates indicated in Article 349 and these Regulations.
- b. Returns mailed to the tax office will be considered filed timely if postmarked on the due date indicated in Article 349 and these Regulations.
- c. If the due dates occur on Saturday, Sunday, or legal holiday, the returns are due in accordance with the rules in (a) and (b) above on the next business day which is not a legal holiday.

### ARTICLE FOUR

Self-employed individuals will report their tax on Copy A, Form OT-3. Self-employed individuals, for the purpose of these Regulations, include, in addition to self-employed businessmen and professionals, employees whose employer is not subject to the withholding requirements of Section 349.04 or is not required to withhold in accordance with Paragraph 203 and 204 of these Regulations. Self-employed individuals also include domestics and members of the clergy.

If a self-employed individual receives a Form OT-3, but is not liable for the tax for any reason, then such individuals shall complete and file Copy C of Form OT-3.

### ARTICLE FIVE

#### EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS WHOSE BUSINESS IS OUTSIDE OF WHITE OAK

Employers and self-employed individuals having their place of business outside the Borough, but who perform services in White Oak, or engage in an occupation or profession within the Borough, are bound by the provisions of Article 349 only if the services performed or occupation engaged in within White Oak is substantial in relation to the total services or occupation performed by the employer or the individual.

For example, a contractor whose place of business is outside of White Oak but who performs incidental jobs in White Oak is not subject to Article 349.

What is "substantial" depends on the facts in each case. "Substantial" is to be determined by reference to the total volume of services or business conducted by the employer or individual.

## ARTICLE SIX

### RECIPROCITY EXEMPTIONS FOR INDIVIDUALS PAYING THE OCCUPATIONAL PRIVILEGE TAX IN ANOTHER PENNSYLVANIA COMMUNITY

In compliance with Act 340, 1965, of the Pennsylvania Legislature, an exemption from the tax is granted to any individual who is primarily liable and who has paid the tax to another Pennsylvania community in a given calendar year.

In the event a person is engaged in more than one occupation, or an occupation which requires his working in more than one political subdivision during the calendar year, the priority of claim to collect such occupational privilege tax shall be in the following order:

First, the political subdivision in which a person maintains his principal office or is principally employed; second the political subdivision in which the person resides and works, if such a tax is levied by that political subdivision; third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year. It is the intent of this provision that no person shall pay more than ten dollars (\$10.00) in any calendar year as an occupational privilege tax, irrespective of the number of political subdivisions within which such person may be employed within any given calendar year.

## ARTICLE SEVEN

### CLAIMS FOR REFUND

701. Claims for refunds of taxes erroneously withheld or paid may be filed with the Tax Collector on Form RO-1. A claim for refund must be filed within twelve months of the due date of the return presumed to be filed in error.

702. Claims for refund of taxes arising from the provision of Article 349 shall be processed according to the following rules:

- a. Such claims will be accepted only after the end of the calendar year in which the earnings are represented to be less than one thousand dollars (\$1,000).
- b. Such claims must be presented within twelve months following the year in which the earnings are less than one thousand dollars (\$1,000).
- c. The claim must be prepared on a form to be designated by the collector and must be accompanied by a true copy of the claimant's Federal Income Tax Return, together with the applicable Federal Forms W-2.  
In the event that the claimant is not required to file a federal income tax return, he will nevertheless be required to furnish a copy of his Federal Forms W-2, together with any other certification required by the Collector.
- d. In any event, it is the intent of Paragraph 702 that the burden of proof of earnings is on the taxpayer and must be submitted to the satisfaction of the Collector.

ARTICLE EIGHTADDITIONAL REGULATIONS

The Collector reserves the right to issue additional regulations and rulings as circumstances may demand. These additional regulations and rulings are to be recorded, and made available for inspection by any taxpayer in the Office of the Borough Secretary, Municipal Building, 2280 Lincoln Way, White Oak, Pa.

Such additional regulations and rules so issued will be included in printings next following the date of issue of the additional regulations and rules. (Res. 1506. Passed 3-1-76.)



APPENDIX B  
REGULATIONS AND RULES FOR BUSINESS PRIVILEGE TAX

INTRODUCTION AND LEGISLATIVE QUALIFICATIONS AND RESTRICTIONS

The Regulations and Rules herein have been prepared as a supplement, addition, and interpretation of the Business Privilege Tax Ordinance. Consequently, these Regulations are not independent, but should be read and interpreted in conjunction with the aforementioned Bill. Content of Article 353 is, therefore, not repeated in these Regulations, except where considered necessary for clarification. All businesses in the Borough are subject to the Tax, except those which Article 353 specifically excludes:

1. Businesses subject to the Mercantile Tax.
2. Business of any political subdivision.
3. Employment for a wage or salary.
4. Any business which the law prohibits from taxing.

Article 353, has been passed under the authority of the Local Tax Enabling Act (Act 511 of 1965, as amended). Section 2 of this Act provides the general power to levy a tax on "persons, transactions, occupations, privileges," etc. The same Section of Act 511 also lists business activities which may not be taxed by local authorities. Consequently, the gross revenues, income, and receipts of the following types of businesses are not subject to the Business Privilege Tax:

1. Sales subject to a State Tax or License Fee.  
(Case decisions have interpreted this to be a "true" tax or license fee: see National Biscuit Company vs. Philadelphia, 374 Pa.; for example, mere annual or one-time license fees paid by beauticians, barbers, accountants, etc. to the Commonwealth are not true license fees.)
2. Gross receipts of utilities whose rates and services are fixed and regulated by the Pennsylvania Public Utility Commission.
3. Gross receipts derived from manufacturing, mining, farming, processing, or sales related thereto, including the transportation and storage of such products.
4. Membership dues, fees, or assessments of charitable, religious or non-profit organizations.

The following Regulations do not repeat the qualifications and restrictions recited above, except where necessary for clarification. However, all of the narrative preceding, titled, "Introduction and Legislative Qualifications and Restrictions," is an inherent part of these Regulations and Rules.

ARTICLE ONE

DEFINITIONS OF BUSINESS AND GROSS RECEIPTS

Section 101. Taxability of Non-profit Organizations.

a. A non-profit organization (which is not subject to the White Oak Mercantile Tax) engaged in a business, as defined in Section 353.01(c), is subject to the tax. If the receipts of this business are from other than the sale of merchandise,

the rate of tax imposed by the Business Privilege Tax, i.e., six mills, shall apply. If the receipts of this business are from the sale of merchandise, the limitation of Act 511 on receipts from the sale of merchandise shall apply, i.e., one and one-half mills on retail transactions and three-fourths of a mill on wholesale transactions.

#### Section 102. Businesses Subject to Both the Mercantile and Business Privilege Taxes.

Although the definition of "business" specifically excludes any business which is subject to the Borough Mercantile Tax, this means only that portion of the business which is subject to the Mercantile Tax. If a business is engaged in the sale of merchandise and is also engaged in providing services and other activities subject to the Business Privilege Tax, only the receipts subject to the Mercantile Tax are excluded from the Business Privilege Tax.

For example:

An automobile dealer pays Mercantile Tax at the rate of 1-1/2 or 3/4 mills on his retail or wholesale merchandise sales, but excludes his service sales from the taxable volume for Mercantile Tax purposes. Service sales so excluded are subject to the six mill Business Privilege Tax.

Other examples of businesses subject to both the Mercantile and Business Privilege Taxes are:

1. Funeral Directors.
2. Optometrists and ophthalmologists.
3. Pharmacists.
4. Garages.
5. Jewelry stores.
6. Retailers with service departments.

#### Section 103. Taxability of Financial Institutions.

The gross receipts of financial institutions, including banks, trusts, credit and investment companies and other similar institutions described in Section 353.01(d) are subject to the tax, except for the portion of the receipts that are exempted by law. Any financial institution claiming exemption of all or part of its receipts must cite on its tax return the law or laws upon which it relies for such an exemption and itemize the portion of such receipts allocable to that exemption. (Res. 1506. Passed 3-1-76.)

#### Section 104. Taxability of Buildings, Hotels, Office Buildings, Apartments, Real Property, etc.

1. Operation of a hotel, apartment house, boarding house, nursing home, rooming house, and such similar establishments, are businesses subject to Article 353. Gross receipts subject to the tax are Gross Rents, without any deduction for expenses. For purpose of this tax, a rental unit is considered to be an apartment house if it contains two or more units, or two or more single family dwellings.

2. Operation of any building or real property or a portion thereof for commercial rental purposes (as opposed to residential rentals) is a business subject to Article 353. Gross receipts subject to the tax are Gross Rents, without any deduction for expenses.  
(Ord. 1553. Passed 12-30-76.)

#### Section 105. Definition of Gross Receipts.

Gross receipts as described in Section 353.01(f) means gross income, gross sales, gross receipts, and similar designations as generally interpreted for federal income tax purposes in accordance with the method of accounting employed by the taxpayer. However, those taxpayers reporting on the installment basis for federal income tax purposes will report sales before any adjustments for realized or unrealized installment income. Refunds, returns and allowances may be deducted to arrive at net taxable gross income for purposes of this tax. Sales taxes collected for the Commonwealth are not includable taxable receipts. Gross receipts does not mean the total flow of cash or other revenues into a business, including non-income revenue, such as loans, sales and excise taxes collected for governmental agencies, accommodation funds handled as agent for a principal, etc.

For example: An attorney may exclude that portion of his receipts which are distributed directly to or on behalf of a client. Also, an advertising or similar agency would not include a client's funds received for transmission to a third party.

### ARTICLE TWO

#### VARIATION IN TAX RATE IN SPECIAL CASES

The tax rate is six mills, except that where the tax is applicable to gross sales of a business operated by a non-profit organization, the tax is limited to one and one-half mills on retail sales and three-fourths of a mill on wholesale sales. (See, also, Article One, Section 101 of these Regulations.)

### ARTICLE THREE

#### COMPUTATION OF GROSS ANNUAL RECEIPTS

#### Section 301. Businesses in Business One Full Year Prior to Taxable Year.

Gross receipts subject to the tax are generally computed by reference to the previous year's receipts, if the business has been in operation at least one full year prior to the taxable year. For example: For computation of the 1976 tax, if the business has been in operation the full twelve months of 1975, gross receipts used in computing the tax are the 1975 receipts, although the tax so computed is the 1976 tax. Receipts are always computed on the calendar year basis, although a business may keep its records on a fiscal year basis for federal income tax purposes.

### Section 302. Businesses in Business Less Than One Full Year Prior to Taxable Year.

If a business has been in operation less than one full year prior to the taxable year, the taxable volume is obtained by determining the monthly average of such business, then multiplying by twelve to obtain an annualized volume. For example: If a business commenced July 1, 1975, and had gross income to \$60,000 from July to December 31, 1975, its monthly average of gross business is \$10,000. \$10,000 times twelve equals \$120,000, which is the taxable volume for 1976.

### Section 303. Businesses Commencing Business Within Taxable Year.

If a business commences its operation in the taxable year, its taxable volume shall be its actual volume from such beginning date to December 31, of that year. Tax returns for business in this category will be due January 31, of the following tax year, instead of May 15, the due date for businesses described in Section 301 and 302. For example: If a business commences July 1, 1976, and has gross income of \$60,000 from July 1, to December 31, 1976, its taxable volume is \$60,000 for 1976. For 1977, its volume would be computed as explained in Section 302. For 1978, its taxable volume would be computed under the general rule explained in Section 301, since 1977 would be the first year that it would be in business for a full twelve months.

### Section 304. Non-resident Businesses.

Non-resident taxpayers who are doing business in White Oak will compute their taxable volume according to the methods outlined in Sections 301, 302, and 303 to the extent of business activity within White Oak.

### Section 305. Receipts Taxable in the Borough.

The tax is imposed only on receipts of businesses attributable and allocable to doing business in the Borough. If a business subject to the tax is physically located in White Oak, it is prima facie that such business is subject to the White Oak tax. Mere deliveries to out-of-White Oak locations incidental services outside of the Borough, sales to out-of-Borough residents, etc., are not exempt from the tax. What constitutes "doing business in White Oak" is essentially a question of fact. If the business is generated by a White Oak office or location, the business is assumed to be taxable in White Oak, except as hereinafter enumerated. Receipts from any transaction shall be attributable to White Oak if any event forming a part of the transaction occurs in White Oak.

- EXAMPLES:
1. A physician maintains an office in White Oak, and makes house calls in McKeesport and other communities outside of White Oak. All of the receipts are taxable in White Oak.
  2. A physician maintains offices in White Oak and McKeesport. Only the receipts attributable to the White Oak office are taxable in White Oak.
  3. An attorney or accountant has an office in White Oak, but serve clients in Pittsburgh and other nearby communities which require visitations to, and work to be done at, the client's place of business outside of White Oak. All of the receipts are taxable in White Oak.

4. However, an attorney or accountant is called to perform work for an out-of-town client that requires the attorney or accountant to stay overnight away from White Oak and to perform all of the services outside of White Oak, except incidental office services in White Oak. These receipts are not taxable in White Oak.
5. Contractors whose place of business is in White Oak, but who perform contracts wholly outside the Borough where the construction, repair, remodeling, etc., is to property located outside the Borough may exclude this revenue from the White Oak tax.
6. Likewise, contractors whose place of business is outside of White Oak, but who perform contracts within the Borough are subject to the tax. General contractors are required to withhold final payment to subcontractors until proof of payment of the tax is furnished to them.
7. Non-resident businesses, regularly conducting business in White Oak, are subject to the tax. "Regularly conducting business" excludes incidental and isolated sales.  
In addition, such non-resident businesses, otherwise taxable, will be exempt from the White Oak tax if they are subject to a Business Privilege or similar tax in their resident community, provided such community applies similar reciprocity to White Oak businesses operating under similar circumstances.
8. In any case, businesses subject to the tax located in White Oak, claiming exclusions for business not taxable in White Oak, must submit a detailed computation of the excludable volume. Such computation will be reviewed by the Collector and evaluated on an individual case basis.

#### Section 305. Deduction for Occupational Privilege Tax.

Individuals subject to both the Business Privilege and Occupational Privilege Tax may deduct the Occupational Privilege Tax paid to White Oak from the amount of Business Privilege Tax due. The Occupational Privilege Tax to be deducted must correspond to the same taxable year as the Business Privilege Tax. For example: The 1976 Business Privilege Tax, although computed generally by reference to 1975 receipts (see Article Three, Sections 301, 302 and 303), may be offset only by the 1976 Occupational Privilege Tax paid.

In a partnership, a deduction may be taken for the Occupational Privilege Taxes paid by all partners to the Borough.

### ARTICLE FOUR

#### RETURNS AND REGISTRATION

#### Section 401. Registration.

Registration as required by Section 353.04(a) will be completed in accordance with the following rules:

1. Businesses in operation on January 1, 1976 will register on or before January 10, 1976.
2. Businesses commencing business after January 1, 1976, will register within seven days after beginning business.

3. All businesses in White Oak must register for the tax, although it may be determined that they are not liable for the tax due to exclusions in Article 353 or exemption by reason of Pennsylvania or Federal law.

#### Section 402. Seasonal Businesses.

Section 353.04(g) requires that a person operating a seasonable business shall file a return within seven days from the day such business is completed. Upon application to the Collector, an extension in such circumstances may be granted for thirty days without imposing penalty and interest as otherwise provided in Article 353.

#### Section 403. Returns.

- a. Tax returns are to be filed by all includable businesses, regardless of form of organization. For purposes of this tax, a partnership is a taxable entity, and the individual partners will not file separate returns. An estate or trust conducting a business is a taxable entity.
- b. Failure to receive a form will not excuse a taxpayer from failure to file a return.
- c. Extension of time for filing a return may be secured from the Collector; however, interest and penalty will apply on the unpaid balance as provided in Article 353, except in the special circumstances described in Section 402 above.
- d. Taxpayers maintaining more than one place of business may file separate returns for each location or one combined return, provided the method selected reconciles with their method of bookkeeping.

#### Section 404. Due Dates of Returns.

Returns will be due on the dates indicated in Article 353 and these Regulations in accordance with the following rules:

1. Returns paid at the tax office are due on the date indicated in Article 353 and these Regulations.
2. Returns mailed to the tax office will be considered filed timely if postmarked on the due date indicated in Article 353 and these Regulations.
3. If the due dates occur on a Saturday, Sunday, or legal holiday, the returns are due (in accordance with the rules in 1. and 2. above) on the next business day which is not a legal holiday.

### ARTICLE FIVE

#### RULINGS

Any taxpayer desiring a specific ruling should submit all of the pertinent facts in writing to the Collector and request a determination of his liability for the tax.

The Collector of Business Privilege Tax reserves the right to issue additional Regulations and Rulings as circumstances may demand. These additional Regulations and Rulings are to be recorded and made available for inspection by any taxpayer in the tax office. Municipal Building, 2280 Lincoln Way, White Oak, Pennsylvania.

Such additional Regulations and Rules so issued will be included in printings next following the date of issue of these Regulations and Rules.  
(Res. 1506. Passed 3-1-76.)



APPENDIX C  
MERCANTILE TAX REGULATIONS

Section 1. To Whom Article 361 Applies.

- A. The license and tax provisions of Article 361 apply to:
1. Wholesale vendors of or dealers in goods, wares and merchandise, that is, those persons who sell to vendors of or dealers in goods, wares and merchandise.
  2. Retail vendors of or dealers in goods, wares and merchandise, that is, those vendors or dealers who are not wholesale vendors or dealers.
  3. Persons conducting restaurants or other places where food, drink or refreshments are sold.
  4. Persons conducting places of amusement, that is, any place indoors or outdoors where the general public or a limited or selected number thereof may, upon payment of an established price, attend or engage in any amusement, entertainment, exhibition, contest or recreation, including among other places, theaters, opera houses, motion picture houses, amusement parks, stadia, arenas, baseball or football parks or fields, skating rinks, circus or carnival tents or grounds, fair grounds, bowling alleys, billiard or pool rooms, shuffleboard rooms, riding academies, golf courses, bathing and swimming places, dance halls, tennis courts, archery, rifle or shotgun ranges and other like places.

B. Article 361 applies to concessionaries who carry on any occupation or business which is described in any of the classifications listed in A. above.

C. Article 361 applies not only to any business in existence at the beginning of the license year, but also to any business begun within the license year.

D. A person whose business is, in part, furnishing services and, in part, dealing in goods, wares and merchandise must comply with the license and tax provisions with respect to his business in goods, wares and merchandise.

Section 2. Payment of License Fees.

A. The license must be posted conspicuously at each place of business of licensee at all times.

B. A person who sells goods, wares or merchandise by means of vending machines and who has not otherwise procured a license as a retail vendor or dealer under Article 361 shall procure one license covering all of his vending machines located in White Oak.

C. Amount of fee: The license fees for such place of business for all or part of a year are as follows:

Wholesale		\$5.00
Retail	5.00	
Combined Wholesale and Retail	5.00	
Brokers		5.00
Restaurant	5.00	
Place of Amusement	5.00	

These license fees are in addition to fees for any other licenses which persons to whom Article 361 applies are required to procure under any ordinance or other statute.

### Section 3. Time of Filing, Payments and Rate.

A. Time of filing:

1. If the taxpayer has commenced business before March 15, of the current year, return must be filed, and the tax paid on or before May 15, in the current license year.
2. If the taxpayer first begins business after March 15, of the current year, the first return and payment of tax are due within thirty days following the first month of business.
3. If the business of the taxpayer is temporary, seasonal or itinerant, the return and payment of tax are due within thirty days following the day he completes such business.

B. Payment of tax: The taxpayer must pay the amount of the tax shown due on the return to the Mercantile Tax Collector at the time of filing the return. Partial payments on account will not be credited to the taxpayer's account. Interest and penalty will be computed on the total amount of tax due.

C. Rates of tax: The tax is imposed on the actual gross business transacted by the taxpayer at the following rates:

Retail	0015
Wholesale	00075

D. Where the character of the business falls within several of the above classes, the "gross volume of business" must be segregated into each of such classes, and the tax must be computed at the rate applicable to each class.

### Section 4. Gross Volume of Business.

A. "Gross volume of business" means "gross receipts" or "gross sales" depending on the nature of the business. The gross volume of business shall include not only receipts in moneys, but also, in the case of barter and exchange transactions in which other than money is received as payment or part payment, an amount equal to that which would have been received if full payment had been required in cash. The gross receipts from sales shall include all receipts from any transfer of title or possession, or both, whether conditional by bailment lease or otherwise, for a consideration.

B. The tax is imposed upon any person who exercises the privilege of carrying on certain businesses within the Borough and is measured by the entire actual gross volume of business transacted by him. Receipts from any business transaction are to be included if any event forming a part of the transaction occurs within the Borough.

Examples of such events are:

1. Cash transaction in White Oak.
2. Receipt of order by seller or his agent in White Oak by mail.
3. Solicitation within White Oak by seller or his agent, or otherwise.
4. Shipment from White Oak.

C. Refunds, credits or allowances given by a vendor or dealer to a purchaser on account of defects in goods, wares and merchandise sold or returned may be deducted from the amount of the "gross volume of business" of the vendor or dealer.

D. The entire gross receipts of vending machines and other mechanical devices which dispense goods, wares and merchandise, or are not taxed under the White Oak Mechanical Devices Ordinance, are to be included in the "gross volume of business" of the owner or lessor thereof. No deductions may be made therefrom for "splits," rentals, commissions or other remunerations paid to persons in charge of the machines and/or to the lessee of premises upon which the machines are located.

E. Brokers, commission merchants, and factors are taxable at the rate of 3/4 mill on each dollar of gross commissions received by them. However, if a person, in addition to acting as a broker, commission merchant, or factor, also acts as a vendor or dealer and takes title to and sells goods, wares and merchandise on his own account, he is required to pay a tax on the entire gross receipts from such sales made on his own account.

F. Persons in the service trades shall include in their taxable gross volume of business that portion of their gross receipts resulting from the sale of goods, wares and merchandise.

G. The following federal and state excise taxes may be excluded from gross volume of business, provided such taxes are separately stated on the evidence of charge or sale. (These are the only taxes excluded from the gross volume computation.)

1. Federal Tax on Admission and Dues.
2. Federal Retailers' Excise Tax on jewelry, furs, and fur articles, toilet preparations and luggage.
3. Pennsylvania and Federal Liquid Fuels Tax.
4. Pennsylvania Sales Tax.

H. Gross receipts from the sale of alcoholic beverages by distributors, sub-distributors, and similarly designated licensees of the Commonwealth of Pennsylvania, are excluded from the computation of gross volume. Retail dealers shall include the sales of alcoholic beverages in their computation of gross volume.  
(Res. 1506. Passed 3-1-76.)

I. Former subsection I. was repealed by Ord. 1552, passed 9-30-76.

J. In the case of businesses discontinuing operations before the end of the calendar year, gross volume is computed in accordance with Section 361.05, pro-rated to the date of termination in the current license year. Businesses that commence and terminate within the same calendar year shall compute their gross volume as a temporary business in accordance with Section 361.05(d).

#### Section 5. Treatment of Particular Transactions.

A. There shall be no mercantile tax levied on the resale of goods, wares and merchandise taken by any dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowances.

When dealers who are engaged in similar lines of business exchange articles of property, and one of them makes payment to the other in addition to the property exchanged by him, the transaction shall constitute sales to each other if the dealers treat such transactions as sales on their records. The receipt of each dealer is measured by the gross value of the consideration received by him. Where a dealer transfers property such as an automobile to another dealer with the understanding that property of identical description will be returned at a subsequent date, such transaction does not constitute a sale, and the value of the property exchanged need not be included in the tax base of either dealer.

B. Property repossessed: Where goods, wares or merchandise sold under a conditional or other installment sale contract are repossessed by the seller, and the repossessed property is subsequently sold, the gross receipts from such sales are to be included in the gross volume of business only to the extent by which the amount of the sale exceeds the balance due on the original sale at the time of repossession. No deduction from gross receipts may be taken at the time of repossession for any unpaid balance due.

C. In the case of garages, automobile dealers, or others operating garages, eighty-five percent (85%) of sales or repair parts written upon repair orders, or in conjunction with repair orders on which a labor charge is made, is exempt.

D. In the case of funeral directors, a fifty percent (50%) allowance for professional service may be deducted from gross receipts in order to arrive at taxable volume.

E. A temporary, seasonal, or itinerant business is one that is regularly conducted for less than six months in a calendar year.

#### Section 6. Returns.

Returns shall be filled in completely. Actual gross volume shall be reported on the returns, with itemization of deductions and exclusions to arrive at taxable volume.

In case of a business which has taxable and non-taxable transactions, total gross volume shall be shown on the return. Non-taxable sales shall be itemized to arrive at taxable volume.

Section 7. Deductions and Exclusions.

Article 361 does not apply to:

- A. Non-profit corporations and associations organized for religious, charitable, or educational purposes.
- B. Agencies of the Government of the United States or the Commonwealth of Pennsylvania.
- C. Any person vending or disposing of articles of his own growth, production or manufacture. The term "manufacture" means the production of a new article which is separate and distinct from the materials or ingredients of which it is composed. Manufacturing shall also include the slaughtering and processing of meats.
- D. Any exhibition, amusement, performance or contest conducted by a non-profit corporation or association organized for religious, charitable or educational purposes.
- E. Professions, such as, lawyers, doctors, architects, engineers and service trades, such as, barbers, laundries and cleaning and dyeing establishments, except to the extent that a part of their business may consist of the sale of goods wares and merchandise.
- F. That portion of the annual gross volume of business which the Commonwealth of Pennsylvania is prohibited from taxing by reason of the Constitution of the United States and of the Commonwealth of Pennsylvania. Receipts will be excluded as having been derived from interstate commerce transactions only if those transactions directly involved the sale, exchange or transportation of commodities between the states. The citizenship or residence of the parties to the transaction is of no significance, and it is of no significance in which state title of the goods passes, or whether the goods are shipped F.O.B. one state or another.

For Example:

- 1. Sale and delivery in White Oak: Receipts are included in the case of sales made by a White Oak vendor or dealer to customers located outside Pennsylvania where the property is delivered directly to the purchaser or his agent within Pennsylvania, notwithstanding the fact that the purchaser or his agent intends to, and later does, transport the property to a point outside the state.
- 2. Shipment into Pennsylvania from out-of-state factory of third party: Receipts are included if the White Oak vendor or dealer causes delivery to be made at point within Pennsylvania from an out-of-state source of supply owned or operated by a third party, (one from whom the vendor buys). For example, if a dealer in White Oak causes an automobile to be delivered directly to the buyer from the factory of the manufacturer in Detroit, the receipts are included in the dealer's gross volume of business on which the tax is based.
- 3. Delivery from out-of-state factory of vendor or dealer via his White Oak office: Receipts are included if the property is shipped from the out-of-state factory or warehouse of a White Oak vendor or dealer to his (the vendor's or dealer's) place of business in Pennsylvania from which point the goods are delivered to the purchaser.

4. Shipment from White Oak by vendor or dealer: Receipts are excluded if the White Oak vendor or dealer, as a necessary incident to the contract of sale, agrees to and does deliver the property to a purchaser at a point outside Pennsylvania, or delivers the property to a common carrier consigned to the purchaser at a point outside Pennsylvania.
- G. Receipts from sales to or dealings with governmental agencies, charitable and religious corporations are not to be excluded from the gross volume of business on which the tax is based. Article 361 grants exemption only to the agencies, institutions and persons specified, and not to taxpayers transacting business with such agencies, institutions and persons.

#### Section 8. Books and Records, and Examination Thereof.

A. Books and records: The taxpayer must maintain such accounting records as will enable him to make a true and accurate return in accordance with the provisions of Article 361 and these Regulations. Such accounting records must disclose in detail all data pertaining to the taxpayer's gross volume of business, and must be sufficiently complete to enable the Treasurer to verify all transactions. A taxpayer claiming exemptions for receipts from transactions in foreign or interstate commerce, and exclusions or non-taxable receipts, must maintain complete records of such items.

B. Inspection and examination: The Collector, or his authorized agent, is authorized to examine the books, papers and records of any taxpayer or supposed taxpayer in order to verify the accuracy of any return made; or, if no return was made, to ascertain the tax to be imposed. He is authorized to examine any person connected with any business concerning any gross volume of business or gross receipts, which was or should have been returned for taxation, and for this purpose may compel the production of books, papers and records. Article 361 directs that every taxpayer, or supposed taxpayer, give to the Collector the means, facilities and opportunity for such examinations and investigations.

#### Section 9. Refunds.

A. Upon application at the office of the Mercantile Tax Collector, pro-rata refunds will be made to businesses discontinuing operations before the end of the license year. (See Section 4J.)

B. License fees on tax erroneously or inadvertently paid to the Collector shall, on proof of such erroneous or inadvertent payment, be refunded.

C. All applications for refund must be filed within twelve months following the end of the license year for which the refund is claimed.  
(Res. 1506. Passed 3-1-76.)

APPENDIX D  
INCOME TAX RULES AND REGULATIONS

ARTICLE I

GENERAL PROVISIONS

SECTION 101. DEFINITIONS.

The following words and phrases used in the Tax Ordinances and Resolutions and in these Rules and Regulations have the following meanings unless the context clearly indicates a different meaning:

“Assessment”	The determination by a local taxing authority of the amount of underpayment by a taxpayer.
"Association."	A partnership, limited partnership, or any other unincorporated group of two or more persons.
"Business."	An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association or any other entity.
“Compensation”	See “Earned Income.”
"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.
“Covenant Not to Compete”	An agreement whereby one party promises to compensate another to refrain from working in a certain profession or business, within a limited geographical region, for a certain period of time. It is a positive absence of activity in the form of an affirmative restraint and is therefore taxable. It is not comparable to income from the sale of good will, nor can the compensation received be considered investment income, for the payments are directly dependant upon the conduct of the person receiving the compensation.
"Current Year."	The calendar year for which the tax is being levied.

- "Domicile." The place where one lives and has his or her permanent home and to which he or she has the intention of returning whenever he or she 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 or her 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." "Compensation" as determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and regulations contained in 61 Pa. Code Pt. I Subpt. B Art. V (relating to personal income tax). Employee business expenses are allowable deductions as determined under Article III of the "Tax Reform Code of 1971". The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income/compensation.
- "Employee." A person employed by an "employer" on a salary, wage, commission or other compensation basis. Any person who renders services to another for financial consideration or its equivalent, under an express or implied contract, and who is under the control and direction of the latter and shall include temporary, provisional, casual, or part-time employment.
- "Employer." A person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission, or other compensation.
- "Hearing Officer" The individual or individuals appointed by the taxing district to receive and hear administrative appeals brought by taxpayers pursuant to Section 502, Administrative Appeals, of these Rules and Regulations. The Hearing Officer shall serve in such capacity until such time as a successor is appointed by the taxing district. The taxing district may enter into cooperative arrangements with overlapping municipal taxing districts to utilize the same Hearing Officer.
- "Income Tax Officer"  
or "Officer" Person, public employee, or private agency designated by the governing body to collect and administer the tax on earned income, compensation and net profits.

“Independent Contractor”	A person who, while performing, services for another person, is not subject to the direction and control of the other as to the details, methods and means by which a result directed by the other is accomplished. Where the independent contractor is in the permanent or part-time employment of an employer, however, that contractor will be considered an employee of said employer for the purpose the tax due under the Ordinances ,and Resolutions.
“Local taxing authority”	A political subdivision levying an eligible tax. The term shall include any officer, agent, agency, clerk, income tax officer, collector, employee or other person to whom the governing body has assigned responsibility for the audit, assessment, determination or administration of an eligible tax. The term shall not include a tax collector or collection agency who has no authority to audit a taxpayer or determine the amount of eligible tax or whose only responsibility is to collect an eligible tax on behalf of the governing body.
“Net Losses”	When the costs and expenses incurred in the operation of a business, profession or other activity (except corporations) are greater than its income or profits, as hereinafter defined.
"Net Profits."	The net income from the operation of a business, profession, or other activity, except corporations, as determined under section 303 of the Act of March 4, 1971 (P.L. 6, No 2), known as the “Tax Reform Code of 1971 and regulations contained in 61 Pa. Code Pt. I Subpt. B Art. V (relating to personal income tax).
"Nonresident."	A person, partnership, association or other entity domiciled outside the taxing district.
“Overpayment”	Any payment of tax which is determined in the manner provided by law not to be legally due.
"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 taxing district.
"Resolution or Ordinance”	Legislation adopted by the taxing district levying and or assessing an earned income/compensation and net profits tax.
"Succeeding Year."	The calendar year following the current year.

"Taxing District"	The political subdivisions, including school districts, levying and assessing an earned income/compensation and net profits tax, which have appointed or commissioned the Officer to collect and administer the tax on earned income/compensation and net profits.
"Taxpayer."	A person, partnership, association, or any other entity, required hereunder to file a return of earned income/compensation or net profits, or to pay a tax thereon.
"Tax"	The earned income/compensation tax and/or net profits tax enacted under Act 511, P.L. 1257 known as "The Local Tax Enabling Act" as amended by Act 166 of 2002. Tax shall include interest, penalties and additions to tax, and shall further include the tax required to be withheld by an employer on earned income/compensation paid, unless a more limited meaning is disclosed by the context.
"Underpayment"	The amount or portion of any tax determined to be legally due in the manner provided by law for which payment or remittance has not been made.
"Voluntary payment"	A payment of an eligible tax made pursuant to the free will of the taxpayer. The term does not include a payment made as a result of distraint or levy or pursuant to a legal proceeding in which the local taxing authority is seeking to collect its delinquent taxes or file a claim therefor.

## ARTICLE II IMPOSITION OF TAX

### SECTION 201. PERSONS SUBJECT TO TAX:

All persons who are:

- (a) Residents of the Taxing District, who are employed or engaged in the operation of a business, profession, or other activity for income or profit;
- (b) Non-residents of the Taxing District, who are employed in the Taxing District, or engaged in the operation of a business, profession, or other activity for income or profit in the Taxing District, are subject to this tax when authorized by ordinance or resolution of the Taxing District.

A "resident" is an individual who is domiciled in the Taxing District, as evidenced, among other things, by one or more of the following:

- a. By customarily being physically present, sleeping, and eating there.
- b. By holding him or herself out as residing there, i.e. giving address in registration for licenses, voting and payment of personal or property taxes.

- c. By his or her spouse and minor children living there.
- d. By maintaining religious, civic, and club affiliations there.
- e. By the center of his or her affairs appearing to be there.

Normally it is not difficult to determine the domicile of a person because most of the determining factors point to one conclusion. Obviously, if a person has all of the foregoing factors occurring in one district, he or she is a resident of that district. Of more difficulty is the situation concerning persons for whom some of the factors occur in one district and others take place elsewhere. In such cases the residence or domicile of an individual shall be determined by the Officer based on all of the legally relevant factors which affect the issue. Each case shall be determined solely on its own facts.

#### SECTION 202. WHAT IS TAXED:

- A. The tax is imposed on earned income/compensation and net profits as defined in Section 101 of these Rules and Regulations. These items are subject to the tax whether a taxpayer received them directly or through an agent.
- B. The earned income/compensation and net profits tax shall be applicable to earned income/compensation received and net profits earned in the period beginning January 1 and ending December 31 of each year. The tax shall continue in force on a calendar year basis, without annual reenactment, unless the rate of tax is subsequently changed. Changes in the rate shall become effective on the date specified in the Ordinances or Resolutions.
- C. Trusts or Estates. Every estate or trust must pay the tax:
  - (1) On net profits resulting from its engagement in any business, trade or other activity which would require the filing of a return by an individual or partnership, and (2) on income/compensation which would be subject to the tax if received by an individual or partnership.

#### SECTION 203. WHAT IS INCLUDED IN EARNED INCOME/COMPENSATION:

The statutory definitions of "Earned Income" and "Compensation" are found in Section 101 of these Rules and Regulations. The purpose of this section is to provide additional clarification of these definitions using various examples and explanations. These examples are not exhaustive nor are they intended to either modify the definitions or to limit what constitutes taxable income.

Examples of earned income/compensation are:

- A. Gross Salaries.
- B. Gross Wages, including Clergy pay.
- C. Commissions.

- D. Bonuses.
- E. Drawing Accounts. (if amounts received as a drawing, account exceed the salary or commissions earned, the tax is payable on the amounts received. If the employee subsequently repays to the employer any amounts not in fact earned, the tax shall be adjusted accordingly).
- F. Incentive Payments. Payments received from employers or on behalf of employers, other than the usual compensation, for the purpose of inducing the employee to make a decision such as buying out an agreement or contract or moving to another location or accepting an early retirement or “Golden Parachute Settlements” are incentive payments and constitute taxable income. Incentive payments shall further include Stock Appreciation Rights (SAR) and /or phantom stock plan payments, where such payments are attributable to remuneration for services rendered and shall further include Auto manufacturers incentive payments, whether made directly to individual salespersons or through a dealership. Incentive payments are not to be considered “retirement” as referenced in Section 101, definition of Earned Income. If the payment/settlement of such sums is to be made in the future, such sums shall be taxed in the year they are received.
- G. Tips and gratuities.
- H. Fees: include Administrator fee, Director fee, Executor fee, Expert witness fee, Fiduciary fee, Honoraria fee (if one profession is being a professional speaker, Trustee fee, fee received for service performed by taxpayer, fee received for decision made by taxpayer, even if it is not considered as self-employment income in the Internal Revenue Code. The fees referenced herein involve activity and participation on the part of the taxpayer.
- I. Earnings Component of Stock Options Plans when the option is exercised. The “earnings component” is considered to be the difference between the stock option price and the fair market value of the stock at the time the option is exercised.

The Pennsylvania Supreme Court in its’ 2/22/2000 decision in the Marchlen case makes no distinction between qualified and non-qualified stock options plans.

Marchlen v. Township of Mt. Lebanon (707 A.2d 631, PA Cmwlt. 1998).

- J. Benefits accruing from employment, including but not limited to, salary advances, annual leave, vacation, holiday, sickness, and severance or separation pay or benefits; excluding, however, benefits referred to in Section 205 and/or by Pa. Personal Income Tax Regulations.
- K. Fair market value of non-cash fringe benefits or incentives accruing by virtue of employment recognized as taxable by the Pennsylvania Department of Revenue are also to be included as taxable earned income/compensation, except to the extent they are specifically excluded by section 205 and/or by Pa. Personal Income Tax Regulations.

**PARTIAL LISTING OF TAXABLE INCENTIVE ITEMS:**

- (1) Automobile allowance which exceeds actual expenses incurred.
- (2) Stock options.
- (3) Group legal services plans.
- (4) Dependent care assistance programs.
- (5) Mortgage assistance in lieu of other compensation.
- (6) Non-cash payment for services rendered.
- (7) Stock bonus plans.
- (8) Moving Allowances.

**EXAMPLES:**

- (1) Taxpayer A receives a salary of \$ 70,000. In addition to his salary, he exercised a nonqualified stock option as reported on Form W-2, of \$ 1 1,000, and was compensated for spouse's travel expenses in the amount of \$ 3,100. Therefore Taxpayer A's total taxable compensation is \$84,100.
- (2) Taxpayer B receives a salary of \$ 55,000, of which \$ 9,000 is deferred to a 401 (k) plan for retirement. Her local taxable earned income/compensation is \$ 55,000. Any plan which serves to reduce gross taxable wages for federal tax purposes is not recognized as an exclusion for earned income/compensation tax purposes.
- (3) Taxpayer C is a minister, employed by a church, but he does not live in a church provided parsonage. Taxpayer C receives a salary of \$ 30,000, a housing allowance of \$ 10,000, and a car\travel expense allowance of \$3,000. The total taxable compensation is \$ 33,000. To claim unreimbursed business expenses, Taxpayer C can file a Pennsylvania Department of Revenue Schedule UE as a deduction from the taxable income/compensation. His housing allowance is not taxable.
- (4) Taxpayer D has recently moved into the Taxing District. In addition to a salary of \$ 43,000, Taxpayer D received \$ 10,000 in moving expense payments from his employer. The total taxable compensation for Taxpayer D is \$ 53,000. Taxpayer D can file a Pa. Department of Revenue Schedule UE and deduct his actual moving expenses, but must enclose Schedule UE and any other supporting documentation when filing his local tax return.

- L. Taxes assumed by the employer for the employee.
- M. Regular wages received during a period of sickness or disability.
- N. Employee contributions to deferred compensation plans and old age or retirement benefit programs, or cafeteria plans, since any plan which, through an employee's contribution, serves to reduce gross taxable wages for federal income tax purposes is not recognized as an exclusion for local tax purposes. Examples: employee contribution/deferment under Sec. 403(b), Sec. 457(b) or Sec. 401(k) of the Internal Revenue Code.
- O. Value of meals and lodging furnished by employers to domestics or other employees unless provided for the convenience of the employer on the employer's premises.
- P. National Guard Pay and Military Reserve Pay (except within serving on active military duty.)
- Q. Scholarships, grants and fellowships, if services are rendered in connection therewith.
- R. Stipends paid to Graduate Assistants. (Also see Section 205.U).
- S. Premature Profit Distributions not rolled into a qualified pension plan, individual retirement account or an annuity plan. Early distribution from retirement or pension plan, on the contributions not taxed when earned. This can include employer contributions, interest earned and employee contributions.
- T. Premature withdrawal of "employer contributed portion of principal" which is actually received by the taxpayer from a regular IRA or from a ROTH IRA, to the extent the employer contributed portion of the principal being withdrawn was not previously taxed for the local earned income/compensation tax, unless the premature principal withdrawal is rolled over without passing to the taxpayer. The taxpayer should use the cost recovery method of accounting to determine the taxable portion of only the previously not taxed principal which the employer contributed.
- U. Cafeteria Plan money (credits) and cash reimbursements made by an employer to the employee for dependant care, legal services or other personal services.
- V. All other forms of compensation or remuneration for an employee's services rendered, whether in cash, property or services.
- W. Back pay awards (unless proven to constitute punitive damages) when the payment represents salary, wages, commissions, bonuses, incentive payments, fees, tips, or other compensation to which the employee is entitled for services rendered.
- X. Severance or separation pay.
- Y. Distributions received prior to the taxpayer's actual date of retirement, including but not limited to E.S.O.P., P.A.Y.S.O.P., 401K, 403B, cafeteria plans, etc. shall be taxable on the employer's contributed portion, if the distribution is not rolled into an individual retirement account, annuity plan, or another qualified retirement plan.

- Z. Covenants not to compete which arise “within an employment relationship,” such as when an employee signs a covenant not to compete with his or her employer if and when he or she is no longer employed. (Example: In such a case, the consideration for the agreement is usually provided at the time the agreement is executed, and often consists of the employment itself).

Neither the kind nor the rate of payment, nor the manner of employment, exempts an employee from the tax. Compensation received in the form of property shall be taxed at its fair market value at the time of receipt.

#### SECTION 204. WHAT IS INCLUDED IN NET PROFITS:

The statutory definition of “Net Profits” is found in Section 101 of these Rules and Regulations. The purpose of this section is to provide additional clarification of this definition using various examples and explanations. These examples are not exhaustive nor are they intended to either modify the definition or to limit what constitutes taxable profits.

Examples of "net profits" are:

- A. The net profits of a business, profession or farm conducted by a sole proprietor.
- B. The net profits of a business, profession or farm conducted as a partnership.
- C. Net profits from the operation of hotels, motels, trailer camps, tourist homes, boarding houses, bed and breakfast establishments, mobile home parks and other similar businesses.
- D. Net profits from the business of renting personal property.
- E. Net profits from real estate rentals received in the course of a trade or business are taxable. Rental income is subject to this tax when the owner actively manages and supervises the property himself/herself or through agents or servants, by providing labor and service in connection with it. The furnishing of such labor and service further signifies activity and participation on the part of the owner and classifies him or her as conducting or carrying on a business as opposed to merely being an incidental owner of investment property.
- F. “Covenants Not To Compete” involving taxpayers who are not employees. The promise not to compete and the subsequent undertaking of that effort pursuant to a business arrangement is sufficient to bring this within the purview of the Net Profits Tax. The fact that this is a negative covenant or rather, a promise not to do something, does not remove it from the realm of a business activity which is undertaken as part and parcel of a contract for a fee. The act of not competing is the consideration contributed to this contract by the taxpayer. It is consideration that has a business purpose, not a personal purpose. See *Rauch v. Tax Review Board of Philadelphia*, 708 A.2d 142 (1998).
- G. All other net profits of business activities except any portion thereof resulting from items not taxed under the provisions of the Ordinances or Resolutions as set forth in Section 205 hereof.

- H. In determining net profits subject to tax under the provisions of the Ordinances and Resolutions, the net profit of each business activity is to be determined separately with reference only to the gross income and expenses of that business and without mixing the income of one activity with the expenses of another. Persons engaged in more than one business activity during the tax year may not offset a loss in one activity against the gain in another. The tax is imposed on the net profit of each business activity separately. A net loss incurred from a profession, business activity or venture, regardless of the nature, may not be deducted from the net profit of any other business activity. (See *Aronson vs. City of Pittsburgh*, 86 Pa. Cmwlth. 591,485 A.2d 890 (1985)). Nor may any net loss of one taxpayer be offset or deducted from the earned income/compensation of another.

EXAMPLE:

A person who receives net profits from the operation of a sole proprietorship may not offset against such profits the net losses incurred as a sole proprietor or partner in another business activity.

- I. Each resident partner or member of a non-resident partnership, association or other entity must pay the tax on his or her share of the net profits whether or not it is actually distributed to him or her.
- J. Business "Bonus Depreciation" amounts are to be calculated for local purposes in the same manner as calculated for Pennsylvania personal income tax purposes (not according to federal income tax provisions).
- K. In the calculations utilized to determine the correct net profits, the following items are to be included as they shall be considered to be part of the business income:
- (1) Interest received on business checking and/or savings accounts.
  - (2) Interest received on credit sales.
  - (3) Interest received on withheld employee taxes.
  - (4) Discounts received from Pennsylvania for timely remitting of sales taxes.
  - (5) Damages, awards and settlements received when such damages, awards and settlements represent compensation for income lost.

SECTION 205. EXCLUSIONS FROM TAX:

The following are not considered to be compensation/net profits and are not subject to the tax:

- A. Sickness, disability, or retirement benefits paid, other than regular wages as provided in Section 203.M.

- B. Benefits paid under any public assistance, unemployment or worker's compensation legislation, including supplemental unemployment benefits, or strike pay.
- C. Death benefits payments to an employee's beneficiary or estate, whether payable in a lump sum or otherwise.
- D. Proceeds of Life Insurance policies or annuities.
- E. Cash or property received as a gift, by will, or by statutes of descent and distribution.
- F. Personal interest and dividends. (Interest earned on business accounts must be included in the calculations of net profits and may not be deducted).
- G. Value of meals and lodging furnished by the employer to domestics or other employees for the convenience of the employer on the employer's premises.
- H. Capital gains as reported on PA-40, Line 5.
- I. Social Security benefits.
- J. Veterans administration allotments for subsistence or disability.
- K. Income from pensions or old age and retirement benefit plans upon retirement.
- L. Active duty military pay.
- M. Lottery winnings.
- N. Cost of group term life insurance.
- O. Individual Retirement Account (IRA) payments received upon retirement.
- P. S Corporation income. (This exclusion does not include compensation paid or attributed to the officers of an S corporation as reasonable compensation for services rendered nor does it apply to any salary, wage, commission, fee, or other compensation received by an officer, director, stockholder, or employee of an S Corporation). *Scott v. Hempfield Area School District*, 168 Pa.Cmwlth. 588 (1994).
- Q. Profits from limited partnerships engaged in real estate, oil, gas, mining leases or other similar passive investments.
- R. Distributions from deferred compensation plans to the extent that such distributions represent a return of the taxpayer's own contribution upon which he originally paid the tax.

- S. Damages for personal injuries.
- T. Payments received for child support and alimony.
- U. Scholarships and fellowships awarded from detached generosity on the basis of financial need or academic achievement for the sole purpose of encouraging or allowing the recipient to further his or her educational development and not as compensation for past, present or future services. A scholarship or fellowship shall constitute earned income/compensation if the recipient must apply his or her skills and training to advance research, creative work or some other project or activity.
- V. Prizes and awards unless the recipient must render substantial service as a condition to receiving, the prize or award.

The items listed and described within Section 205 are not to be listed as deductions against income, as they are a list of non-taxable income sources.

#### SECTION 206. RESIDENT TAXATION:

The entire earned income/compensation and net profits received and/or earned by a resident of the Taxing District is subject to this tax. Neither the source of the earned income/compensation or net profits nor the place where it is received and/or earned exempts a resident from the tax.

#### SECTION 207. NON-RESIDENT TAXATION:

The entire earned income/compensation and net profits received and/or earned by a non-resident of the Taxing District who is employed in the Taxing District or engaged in the operation of a business, profession, or other activity for income or profit in the Taxing District, is subject to this tax when authorized by ordinance or resolution of the Taxing District, provided, however, that non-residents are not subject to taxation by school districts.

Any person claiming non-residency status must provide proof of non-residency such as a passport with valid student or exchange visitor's visa, driver's license or other acceptable documentation. Any person claiming non-residency exemption status must provide proof of payment of local income taxes elsewhere for the concurrent time period.

#### SECTION 208. CREDITS:

Credit for earned income/compensation or net profits tax paid for the concurrent time period to another state or political subdivision will be allowed as a deduction from the liability of taxpayers for tax imposed under the provisions of the Ordinances and Resolutions and as provided by Act 511. Such allowable credit will be available up to the maximum effective rate of tax levied by the Taxing District provided, however, that this same credit has not already been applied towards the taxpayer's liability for the Pennsylvania Personal Income Tax for the same period. Evidence of the amount of gross earnings and payments of the applicable tax on earned income/compensation or net profits is required before this credit is allowed.

**SECTION 209. DEDUCTIONS AND LOSSES:****A. Deductions:**

Employee's Unreimbursed Business Expenses - Business Expenses for which an employee has not been reimbursed are allowed as a deduction from earned income/compensation provided such expenses meet the "four part test" as established by the Pennsylvania Department of Revenue. That is, the expense must be "ordinary, actual, reasonable, and necessary" in order to be deducted from earned income/compensation. This means that any expense claimed as a deduction from gross earnings must be:

1. Customary and accepted in the industry or occupation in which the taxpayer works.
2. Directly related to the taxpayer's present occupation as opposed to an occupation in which he plans to enter in the future.
3. Reasonable in amount and not lavish or excessive.
4. Necessary to enable the taxpayer to properly perform the duties of his present employment.

Those expenses not meeting the "four part test" are not allowed as a deduction from earned income/compensation. The taxpayer has the burden of proving that any expense claimed is ordinary, actual, reasonable and necessary and must maintain adequate and sufficient records to substantiate any such deduction taken.

Examples of expenses which may not be deducted from earned income/compensation include (but are not limited to): Travel (commuting) to and from work; meals and lodging unless the "away from home overnight test" is met; capital expenditures, moving, educational and office-in-home expenses except as allowed by the Pennsylvania Department of Revenue; and personal expenses such as medical, dental, life insurance premiums, contributions, interest, other taxes, gifts and entertainment, dues to professional or fraternal societies, club memberships, subscriptions to publications, alimony, babysitting, books, casualty or theft losses, license fees, clothing suitable for everyday use, employee deferred compensation plan contributions, Federal Form 1040 tax credits and other taxes, individual retirement account (IRA) contributions, employee contributions to Simplified Employee Pension Plans (S.E.P.), Federal State or Local income taxes, gift estate or inheritance taxes and personal taxes, penalties or interest paid on delinquent income taxes, tools for use at home, Federal Form 1040 itemized deductions or the Occupational Privilege Tax.

**B. Losses:**

Taxpayers are permitted to offset a loss in one class of taxable income against his/her W-2 income. *O'Reilly v. Fox Chapel Area School District*, 555 A.2d 1288, 521 Pa. 471, 1959. However, if a net loss is incurred from the operation one or more business activities, the amount of the net loss or losses must be listed separately (not combined with the net profit of any other business or businesses). *Aronson v. City of Pittsburgh*, 485 A.2d 890, 86 Pa.Cmwlt. 591, 1985

Losses may only be applied in the year in which the loss was actually incurred, and may not be carried forward to subsequent years.

One person's losses may not be deducted from his or her spouse's earnings.

S Corporation losses may not offset the earned income/compensation or net profit of any taxpayer.

### ARTICLE III COLLECTION AT THE SOURCE

#### SECTION 301. EMPLOYERS REQUIRED TO WITHHOLD:

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business located within the Taxing District and who employs one or more persons (other than domestic servants in a private home) for a salary, wage, commission, or other compensation, shall deduct the tax from the employee's wage at the time or payment thereof pursuant to Taxing District Ordinance or Resolution.
- B. Fiduciary Status - Employers who withhold earned income/compensation tax from employees, and the person responsible for the transmission of earned income/compensation tax withheld by a corporate employer, shall be a fiduciary charged with all the responsibilities of a fiduciary with respect to taxes withheld, and shall be subject to all duties imposed by law on fiduciaries, including criminal penalties for breach of duties.

#### SECTION 302. VOLUNTARY WITHHOLDING:

Any employer located outside the Taxing District may voluntarily withhold the tax from employees who are residents of Taxing District but are employed outside the Taxing District. Such employers assume the fiduciary responsibilities as outlined in Section 301. B.

#### SECTION 303. REGISTRATION OF EMPLOYERS:

- A. Each employer withholding or required to withhold tax pursuant to Sections 301 and 302 shall register with the Taxing District such employer's name and address and such other information as the Officer may require within fifteen (15) days after becoming a withholding employer.
- B. All employers who have a place of business located within the Taxing District shall maintain complete records of all employees for a period of six (6) years in such form as to enable the Officer to determine the employers' liability to withhold for each employee, the amount of taxable income for each employee, the actual amount of tax withheld, the actual amount transmitted to the Officer and such other information available to such employers as will enable the Officer to carry out his or her responsibilities.

#### SECTION 304. LIABILITY OF EMPLOYEE:

Failure or omission of any employer to withhold the tax shall not relieve the employee from the payment of the tax, or from complying with the requirements relating to the filing of declarations and returns.

ARTICLE IV  
PAYMENT OF TAX AND RETURNS

SECTION 401. ANNUAL RETURNS OF TAXPAYERS:

- A. On or before April 15 of each year, every person who was:
- (1) A resident of the Taxing District who was employed or engaged in the operation of a business, profession, or other activity for income or profit; or
  - (2) A non-resident of the Taxing District who was employed in the Taxing District or engaged in the operation of a business, profession, or other activity for income or profit in the Taxing District, for all or any part of the preceding calendar year;
- shall file with the Income Tax Officer an Annual Tax Return showing all earned income/compensation and net profits received and/or earned for the previous year.
- B. Persons residing in more than one taxing district during the calendar year must file an Annual Tax Return with the Officer for each district in which they resided during the year.
- C. If a person receives an Annual Tax Return from the Income Tax Officer and has no earned income/compensation to report, the word "none" shall be entered on the Annual Tax Return, and the return shall be signed, dated, and returned to the Officer with an explanation (Military Service, Retired, Disability Income Only, Unemployment Compensation Only, S Corporation Only, Housewife, Unemployed Student, or Deceased).
- D. If net profits are received, the type of business, profession or activity shall be indicated on the Annual Tax Return and the amount of the profit shall be shown on the appropriate line of the return. If a net loss is incurred in the operation of a business activity, it may not be offset against the net profit of other business activities. Losses shall be indicated as zero in all calculations involving net profits, and zero shall be entered on the appropriate line of the Annual Tax Return. There shall also be attached to the Annual Tax Return a copy of the appropriate PA-40 and Pennsylvania C, E, F, UE, or RK-1) to substantiate profits and/or losses indicated.
- E. The Annual Tax Return shall also show the taxpayer's name, Social Security number, address, place or places of employment or business, the amount of tax due, the amount of credit claimed for tax withheld by an employer (with a copy of the Earnings and Tax Statement showing the amount of tax withheld) and such other information as may be indicated on the return form or as may be required by the Officer.
- G. Every person subject to the tax shall file such return regardless of the fact that his or her wages may have been subject to withholding of the tax by his or her employer and regardless of whether or not any tax is due.
- H. At the time of filing the annual return, the taxpayer shall pay any tax due. Total balances less than \$ 1.00 need not be paid.

- I. The annual tax return must be signed and dated by the taxpayer in the space provided.
- J. Each taxpayer shall report his or her earned income(s), net profits(s), taxes paid by the taxpayer, taxes withheld by the taxpayer's employer, and business expenses, individually, in the columns on the annual tax return headed by their social security number.
- K. Taxpayers with S Corporation income shall file an Annual Tax Return and attach a copy of their Federal Tax Form 1120 S for audit purposes only. Except in situations where compensation is either paid or attributed to the officers of an S corporation as reasonable compensation for services rendered, S Corporation income is not taxed for local tax purposes. Likewise, S Corporation losses may not offset earned income/compensation or net profits.
- L. Remittances shall be made payable to the Taxing District or Income Tax Officer.
- M. Bad Checks - A \$29.00 charge will be levied each time a check is returned from the bank unpaid. Checks issued in violation of the Pennsylvania Crimes Code will be referred to appropriate authorities for possible criminal prosecution.

#### SECTION 402. DECLARATION AND PAYMENT OF TAX:

- A. Every taxpayer who has earned any income that is not subject to withholding but that is otherwise subject to the tax, shall file quarter-annual estimated tax returns with the Income Tax Officer and pay the estimated tax due. The quarter-annual returns shall be due on or before April 30, July 31 and October 31 of the current year and January 31 of the succeeding year.
- B. Every taxpayer not subject to withholding is required to pay at least seventy-five percent (75%) of the annual tax liability on or before January 31 of the succeeding year.
- C. Payments made after due dates shall be subject to interest at the rate of six percent (6%) per annum on the amount of tax and an additional penalty of one-half of one percent (1/2%) of the amount of unpaid tax for each month or fraction thereof during which the tax remains unpaid.
- D. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the officer an annual tax return setting forth the amount of wages and net profit(s) earned during the period beginning January 1, and ending December 31, of the current year, the amount of tax due thereon, the amount of tax paid thereon, the balance of tax due, and all supporting documentation required with the filing of an annual tax return. At the time of filing the annual tax return, the taxpayer shall make payment of the tax due as shown thereon or shall make demand for refund or credit in the case of overpayment.
- E. Every taxpayer is required to file an annual return, pursuant to SECTION 401, whether or not a declaration and/or quarterly installments have been filed and/or paid.

## SECTION 403. RETURNS OF EMPLOYERS AND PAYMENTS OF WITHHELD TAX:

- A. Every employer required to withhold the tax shall file a quarterly return on the PROPER FORM setting forth the name, Social Security number, address, municipality of residence, gross earnings, and the amount of tax withheld for each employee, and shall remit the total sum thereof to the Income Tax Officer at the following times:

Before:	For Quarter Comprising the Following Months in which Wages are paid:	Employer's Quarterly Return and Payment DUE on or
	Jan, Feb, Mar	April 30
	Apr, May, Jun	July 31
	Jul, Aug, Sep	October 31
	Oct, Nov, Dec	January 31

- B. Employers may utilize computer printouts or similar listings to transmit quarterly and/or annual employee withholding data provided the required information is furnished in a manner acceptable to the Income Tax Officer.
- C. Employers may utilize magnetic media filings to transmit quarterly and/or annual employee withholding data provided the required information is furnished in a manner acceptable to the Income Tax Officer.
- D. Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the Officer, may be required by the Officer to file the return and pay the tax monthly. In such cases, payments of tax shall be made to the Officer on or before the last day of the month succeeding the month for which the tax was withheld.
- E. On or before February 15, of the succeeding year, every employer shall file with the Officer:
- (1) An annual return showing the employees name, address and identification number, the total number of withholding statements transmitted with the annual return, the total income tax withheld from wages during the year as shown by withholding tax statements and the total income tax withheld as reported on the quarterly returns. Any differences between the total income tax withheld from wages as shown on the withholding statements and the total income tax withheld as reported on the quarterly returns must be fully explained in an attached note.
  - (2) A withholding tax statement (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 employee's name, address and Social Security number, the amount of earned income/compensation paid to the employee during said period. the amount of tax deducted, the political subdivision imposing the tax upon such employee. and the amount of tax paid to the Officer.

- F. Every employer who discontinues business prior to the completion of taxable year, shall, within thirty (30) days after the discontinuance of business, file and furnish the returns required by this section covering the periods between the last such return and the discontinuance of business, and remit to the Officer all remaining tax due.
- G. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of the Ordinances or Resolutions relating to the filing of' Declarations and Returns.
- H. (1) **TRUSTEE EX MALEFICIO:** One who collects the earned income/compensation tax as agent for a taxing authority or the taxing authority's tax collector and fails to pay same over to the appointed collector for the taxing authority is a trustee ex maleficio.

EXAMPLE: An officer of a company that fails to remit the earned income/compensation tax withheld from the company's employees may be held personally liable for the earned income/compensation tax withheld as a trustee ex maleficio, where the officer has been active and/or in control over the collection and remitting of taxes.

- (2) Businesses and Corporations must act through individuals and where such individuals are the acting and controlling officers and agents of the corporation or business, and they fail to administer the trust responsibilities, liabilities are imposed upon the individuals who are responsible for the performance of the trust duty.

EXAMPLE: A corporation which files a tax return form, or the forms W2 document collections from employees, but remits only part of these collections to the income tax officer shall be liable for the withheld taxes as a trustee through wrong doing. The controlling corporate officer is also liable for the tax as a trustee through wrong doing, to the extent that this officer failed, permitted and/or directed the corporation not to remit the withheld tax.

EXAMPLE: An officer and/or director of a corporation or business who has knowledge that the corporation has failed to pay over withheld earned income/compensation tax shall be personally liable for the tax withheld because that person did not try to prevent the corporation or business from spending its funds without first paying the withheld tax to the income tax officer.

- (3) **LIABILITIES OF CORPORATIONS AND OFFICERS:** Where a corporation does not remit the earned income/compensation tax withheld from its employees and subsequently is dissolved in bankruptcy, the corporate officers shall be held personally liable, jointly or severally, for the payment of the earned income/compensation tax withheld.

EXAMPLE: The officers are the sole owners of the shares of stock and/or are the "guiding force" of the corporation. The officers are trustees of the earned income/compensation tax collected since they are responsible for the corporation's failure to remit the tax and for the misappropriation of the funds. The doctrine of separate entity of the corporation shall not defeat the income tax officer's claims.

- I. The employer, the business, the corporation shall not characterize the tax withheld simply as creating a debtor-creditor relationship between the employer or business or corporation and the income tax officer as collector for the taxing authority, therefore the employer is the conduit for its employees' tax payments. Consequently, these taxes withheld are held in "express trust" or in "constructive trust" for the taxing authority and its collector of these taxes.
- J. **RESPONSIBLE PARTY.** An officer or employee of a business entity including a corporation, who is responsible or has the duty to collect or withhold earned income/compensation tax and/or possesses actual or implied control over funds and tax accounts will be personally assessed for collected or withheld earned income/compensation tax that is not remitted. Generally the income tax officer will issue an assessment, or file a legal action, against the chief operating officer and/or financial officers of any entity, including corporations, if the facts of the particular case disclose that these individuals are involved in the day to day operation of the business entity and retain decision making authority over financial matters. A responsible person need not be an officer of the entity. Managers whose duties include authority and control over financial decisions may likewise be held responsible.
- K. **Bad Checks -** A \$29.00 charge will be levied each time a check is returned from the bank unpaid. Checks issued in violation of the Pennsylvania Crimes Code will be referred to the appropriate authorities for possible criminal prosecution.

#### SECTION 404. PENALTY, INTEREST AND LATE FEES:

If for any reason the tax is not paid when due, interest at the rate of six percent (6%) per annum on the amount of said tax, and an additional penalty of one-half of one percent (1/2%) 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 shall be brought for recovery of any such tax, the person liable therefore shall, in addition, be liable for the cost of collection and the interest and penalty herein imposed.

If a taxpayer fails to file a valid Annual Return (see Section 509), and/or fails to pay the tax in full on or before the due date of the succeeding year or on or before the date to which an extension has been granted pursuant to Section 405, the taxpayer shall at all times remain responsible for the filing of a valid Annual Return and shall be liable for a five dollar (\$5.00) late fee pursuant to Section 509. This late fee shall be paid by the taxpayer in addition to any tax balance due, including any fines, penalties and interest, and shall be paid whether or not all earned income/compensation tax may have been withheld by his or her employer and whether or not there is any tax balance due.

Abatement of certain interest and penalty will be considered under the following conditions:

- (a) **Errors and delays -** In the case of any underpayment, the Officer may abate all or any part of interest for any period for the following:
- (1) Any underpayment or tax finally determined to be due attributable in whole or in part to any error or delay by the Officer in the performance of a ministerial act. For the purposes of this paragraph, an error or delay shall be taken into account only if no significant aspect of the error or delay can be attributed to the taxpayer and after the Officer has contacted the taxpayer in writing with respect to the underpayment of tax finally determined to be due or payable.

- (2) Any payment of a tax to the extent that any error or delay in the payment is attributable to an officer, employee or agent of the Income Tax Officer being erroneous or dilatory in performance of a ministerial act. The Officer shall determine what constitutes timely performance of ministerial acts performed under this subsection.
- (b) Abatement due to erroneous written advice by the Income Tax Officer:
- (1) The Officer shall abate any portion of any penalty or excess interest attributable to erroneous advice furnished to the taxpayer in writing by an officer, employee or agent of the Income Tax Officer acting, in the officer's, employee's or agents official capacity if:
    - (a) The written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer, and
    - (b) The portion of the penalty or addition to tax or excess interest did not result from a failure by the taxpayer to provide adequate or accurate information.
  - (2) This subsection shall not be construed to require the Income Tax Officer to provide written advice to the taxpayer.

#### SECTION 405. EXTENSIONS:

A taxpayer who requires an extension of time in which to file his or her Annual Tax Return shall make written application to the Income Tax Officer no later than one hundred and five (105) days from the end of the calendar year for which the Return will be filed. A taxpayer who is granted an extension of time for filing his or her Federal or Pennsylvania Income Tax Return shall not automatically be entitled to a similar extension of time for filing his or her local income tax return. A copy of the taxpayer's Federal or Pennsylvania tax extension form must be received by the Income Tax Officer on or before April 15, of the succeeding year, for the extension to be approved. Such approved extension shall be valid through August 15, of the succeeding year.

Any taxpayer who, after receiving an approved extension to August 15, of the succeeding year, finds that he or she needs additional time for proper completion of the Annual Tax Return, shall make written application to the Income Tax Officer on or before August 15, of the succeeding year, requesting an additional extension of time to file. Such approved second extension shall be valid through October 15, of the succeeding year and will only be approved if a first extension was filed and approved on or before April 15, of the succeeding year. Under no circumstances will extensions be approved after October 15, of the succeeding year.

Interest and penalty, as outlined in Section 404, will be added and collected on tax not received by its due date, even though an extension of time for filing has been granted.

**SECTION 406. CHANGE IN FEDERAL TAXABLE INCOME:**

If the amount of a taxpayer's earned income/compensation or net profits reported on his or her annual Federal or Pennsylvania Income Tax Return is changed or corrected either by action of the Internal Revenue Service or Pennsylvania Department of Revenue or by the individual's filing of an amended annual Federal or Pennsylvania Return, the taxpayer shall report to the Income Tax Officer such change or correction within thirty (30) days after the date when the change or correction was determined, by filing an amended tax return indicating the applicable tax year on the return.

**ARTICLE V  
ADMINISTRATION AND ENFORCEMENT**

**SECTION 501. INCOME TAX OFFICER:**

- A. The Officer is charged with the administration and enforcement of the Ordinances and Resolutions and these Rules and Regulations, and is authorized to act on behalf of the Taxing District in such administrative and enforcement matters.
- B. The Officer shall keep a record showing the amount received by it from each person paying the tax and, if paid by such person in respect of another person, the name of such other person, and the date of receipt for seven (7) years.
- C. The Officer has prepared a "DISCLOSURE STATEMENT" which sets forth the following in simple and non-technical terms:
  - (1) The rights of a taxpayer and the obligation of the local taxing authority during an audit or an administrative review of the taxpayer's books and records.
  - (2) The administrative and judicial procedures by which a taxpayer may appeal or seek review of any adverse decision of the local taxing authority.
  - (3) The procedure for filing and processing refund claims and taxpayer complaints.
  - (4) The enforcement procedures.

The Income Tax Officer shall make a copy of the disclosure statement available to any taxpayer contacted regarding the assessment, audit, determination, review or collection of an eligible tax.

**SECTION 502. ADMINISTRATIVE APPEALS:**

- A. The taxing district has established an administrative process to receive and make determinations on petitions from taxpayers relating to the assessment, determination and refund of eligible taxes as required by Act 50 of 1998. The Hearing Officer shall rule on all petitions submitted, based on the regulations hereinafter set forth governing the practice and procedures of this Administrative Appeals process.
- B. Any taxpayer who is aggrieved by an assessment or determination or delinquency of any of the eligible taxes would have 90 days from the date of the assessment or determination notice to file a petition for reassessment or re-determination with the Hearing Officer.

- C. The petition shall be double spaced, typed or legibly hand written on plain paper. The petition should contain a brief summary of the action and the “legal basis” that precipitated the filing for reassessment or re-determination, along with any pertinent information (copies of tax returns, supporting information, tax schedules, expense records, etc.)
- D. The petition shall be mailed via First Class Mail, or delivered in person to the Hearing Officer c/o the Income Tax Officer. Hand delivered petitions will be received by the Income Tax Officer and will be considered filed as of the date received. Petitions received by mail will be considered filed as of the United States Postal Service postmark stamped on the envelope.
- E. Petitions will be photocopied by the Income Tax Officer and forwarded immediately to the Hearing Officer. Within 10 days of the petition’s filing date the Income Tax Officer will submit its position and all relevant facts pertaining to the action that precipitated the petition to the Hearing Officer.
- F. Within 60 days of the petition’s filing date a “Final Decision” must be issued by the Hearing Officer. Failure to issue a “Final Decision” within 60 days will result in the petition being deemed approved.
- G. Any person aggrieved by a decision of the Hearing Officer who has a direct interest in the decision shall have the right to appeal to the court vested with the jurisdiction of local tax appeals by or pursuant to 42 Pa.C.S.
- H. Decisions under this Section 502 may be made according to principles of law and equity.

**SECTION 503. EXAMINATION OF BOOKS AND RECORDS OF TAXPAYERS AND EMPLOYERS:**

- A. The Income Tax Officer and agents or staff members of the Officer designated in writing by him are authorized to examine the books, papers and records of any taxpayer or supposed taxpayer of any employer or supposed employer in order to verify the accuracy of any return; or, if no return was filed, to ascertain the tax due, if any. Every taxpayer or supposed taxpayer and every employer or supposed employer *is* required to give the Officer or any agent or staff member so designated by him, the means, facilities and opportunity for such examination and investigations as are authorized. In addition to all other powers, the Officer and agents or staff members of the Officer shall have the power, on behalf of the taxing jurisdiction to examine any person under oath concerning salaries, wages, commissions, and other compensation listed on the annual tax return, or which should have been listed on the annual tax return for taxation hereunder; to compel the production of books, papers and records, and the attendance of persons (whether as parties, principals, agents or witnesses) before him.
- B. Minimum time period for taxpayer response to requests for information shall be 30 days from the mailing of the audit notice. The Officer shall grant reasonable extensions upon application for good cause and shall notify the taxpayer of the procedure to obtain an extension in its initial request for information.

An initial inquiry by the Officer regarding a taxpayer's compliance with any eligible tax may include taxes required to be paid or tax returns required to be filed no more than three years prior to the mailing date of the notice.

The Officer may make a subsequent request for a tax return or supporting information if, after the initial request, the Officer determines that the taxpayer has failed to file a tax return, underreported income or failed to pay a tax for one or more of the tax periods covered by the initial request. Note that this requirement shall not apply if the Officer has sufficient information to indicate that the taxpayer failed to file a required return or pay an eligible tax which was due more than three years prior to the date of the notice.

- C. Any information gained by the Income Tax Officer as a result of any audit, return, report, investigation, hearing or verification shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for the Officer to:
- (1) Divulge or make known in any manner any confidential information gained in any return, investigation, hearing or verification to any person.
  - (2) Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person.
  - (3) Print, publish or make known in any manner any confidential tax information.

An offense under this subsection is a misdemeanor of the third degree and, upon conviction thereof, a fine of not more than \$2,500 and costs, or a term of imprisonment for not more than one year, or both may be imposed. If the offender is an employee of the Income Tax Officer, the officer or employee shall be dismissed from office or discharged from employment.

Pursuant to the foregoing, the Officer and agents or staff members of the Officer are authorized to require the production of federal and/or state tax returns for purposes of determining the accuracy of a taxpayer's local tax return and/or of assessing the earned income/compensation and net profits tax. [See *Borough of Brookhaven v. Century 21*, 57 Pa. Cmwith. 211 (1981)].

- B. Information obtained by the Officer or any other official or agent of the Officer as a result of any declarations, returns, investigations, hearings, or verifications required or authorized, shall be confidential and may not be disclosed to any person, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

#### SECTION 504. RECORDS TO BE KEPT BY TAXPAYERS AND EMPLOYERS:

Taxpayers and employers subject to the Ordinances or Resolutions are required to keep such records as will enable the filing of true and accurate returns, whether taxes are withheld at the source of earned income/compensation or of taxes payable upon earned income/compensation or net profits, or both; and such records shall be preserved for a period of not less than six (6) years in order to enable the Officer to verify the correctness and accuracy of the returns filed.

## SECTION 505. REFUNDS AND CREDITS:

A valid Annual Tax Return must be filed before a request for a refund or credit can be considered. Depending on the nature of the refund or credit, additional documentation to substantiate the request may be required by the Officer. Refund and credit requests will not be processed until the necessary documentation is provided. Requests for refunds and credits will be considered based upon the relevant facts and circumstances pertinent to each case. Amounts less than one dollar (\$ 1.00) will be refunded only upon written request of the taxpayer, addressed to the Officer, and accompanied by a stamped, self-addressed envelope. Credits of less than one dollar (\$ 1.00) will be extended only upon written request of the taxpayer, addressed to the Officer, and accompanied by a stamped, self-addressed envelope.

- A. A taxpayer who has paid an eligible tax to the Income Tax Officer may file a written request with the Officer for a refund or credit of the eligible tax. A request for refund shall be made within three years of the due date for filing the report as extended or one year after actual payment of the tax, whichever is later. If no report is required, the request shall be made within three years after the due date for payment of the eligible tax or within one year after actual payment of the eligible tax, whichever is later.
- (1) For purposes of this section, a tax return filed by the taxpayer with the Officer showing an overpayment of tax shall be deemed to be written request for a cash refund unless otherwise indicated on the tax return.
  - (2) A request for refund under this subsection shall not be considered a petition under SECTION 502 of these Rules and Regulations and shall not preclude a taxpayer from submitting a petition under SECTION 502 of these Rules and Regulations.
  - (3) For amounts paid as a result of a notice asserting or informing the taxpayer of an underpayment, a written request for refund shall be filed with the Income Tax Officer within one year of payment.
- B. All overpayments of tax due a local taxing authority shall bear simple interest from the date of overpayment until the date of resolution.

Interest on overpayments shall be allowed and paid at the same rate the Commonwealth is required to pay pursuant to 72 P.S. Section 806.1 known as the Fiscal Code. Exceptions are as follows:

- (1) No interest shall be allowed if an overpayment is refunded or applied against any other tax, interest or penalty due the taxing district within 75 days after the last date prescribed for filing the report of tax liability or within 75 days after the date the tax return is filed or the report of liability due is filed, whichever is later.
  - (2) Overpayments of interest and penalty shall not bear any interest.
- C. The taxpayer's acceptance of the Officer's check shall not prejudice any right of the taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check by the Officer shall be deemed to be acceptance of the check by the taxpayer for the purposes of this section.

D. As used in this SECTION 505 of these Rules and Regulations, the following words and phrases shall have the meanings given to them in this subsection D.

“Date of overpayment” The later of the date paid or the date tax is deemed to have been overpaid as follows:

- (1) Any tax actually deducted and withheld at the source shall be deemed to have been overpaid on the last day for filing the report for the tax period, determined without regard to any extension of time for filing.
- (2) Any amount overpaid as estimated tax for the tax period shall be deemed to have been overpaid on the last day for filing the final report for the tax period, determined without regard to any extension of time for filing.
- (3) An overpayment made before the last day prescribed for payment shall be deemed to have been paid on the last day.
- (4) Any amount claimed to be overpaid with respect to which lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid 60 days following the date of the initiation of the review or procedure.
- (5) Any amount shown not to be due on an amended income or earned income/compensation and net profits tax return shall be deemed to have been overpaid 60 days following the date of the filing of the amended income tax return.

"Date of Resolution" The date the overpayment is refunded or credited as follows:

- (1) For a cash refund, a date preceding the date of the Officer's refund check by not more than 30 days.
- (2) For a credit for an overpayment:
  - (a) The date of the Officer's notice to the taxpayer of the determination of the credit; or
  - (b) The due date for payment of the tax against which the credit is applied, whichever first occurs. For a cash refund of a previously determined credit, interest shall be paid on the amount of the credit from a date 90 days after the filing of a request to convert the credit to a cash refund to a date preceding the date of the refund check by not more than 30 days whether or not the refund check is accepted by the taxpayer after tender.

**SECTION 506. FINES AND PENALTIES FOR VIOLATIONS:**

Any person who violates any provision of the Ordinances, Resolutions or these Regulations shall, upon conviction, be sentenced to pay a fine of \$500.00 for each offense plus costs, and in default of payment thereof, to be imprisoned in the County Prison for a period not exceeding thirty (30) days. Some of the violations which may result in such conviction are:

- A. Failure, neglect, or refusal on the part of any person, to make and file any declaration or return required by the Ordinances or Resolutions.
- B. Failure, neglect, or refusal of any employer, required to withhold the tax under Article III of these Rules and Regulations, to register with the Officer.
- C. Failure, neglect, or refusal of any employer to deduct or withhold the tax from his or her employees.
- D. Failure, neglect, or refusal to maintain or to reveal to the Officer or its authorized representative, by any person, any partner of a partnership, or any officer of a corporation or association, books, records, papers (including Federal or State tax forms) relevant to the tax imposed hereunder.
- E. Knowingly making any incomplete, false or fraudulent report or return or attempting to do any other thing to avoid full disclosure of net profits or earned income/compensation in order to avoid the payment of the whole or any part of the tax imposed by the Ordinances or Resolutions.

**SECTION 507. CONCURRENT REMEDIES:**

Imposition of any fine or imprisonment shall not bar either civil liability for tax, penalty or interest or late filing fee or prosecution for embezzlement, fraudulent conversion, theft, or other offense under the Pennsylvania Crimes Code, or failure to file a properly prepared tax return under Act 511.

**SECTION 508. FAILURE TO RECEIVE FORMS:**

Failure of a taxpayer or employer to receive forms or returns required by the Ordinances or Resolutions does not excuse any failure to file any reports or returns required or to pay any tax due.

**SECTION 509. RETURN COMPLETION - GENERAL:**

- A. Each taxpayer shall account for all twelve (12) months of the calendar year as to their place of domicile and, in the case or more than one place of domicile, the months in each place of domicile and also provide the name of each Borough, Township, or City in which they were domiciled during the year.

- B. Amounts are not to be rounded off, Actual amounts are to be used,
- C. All appropriate schedules (Federal and State tax forms and schedules, as well as taxpayer prepared worksheets referenced on Federal or State tax forms and schedules), W-2 forms, and 1099 forms shall be filed with the annual tax return. Annual tax returns received without the appropriate schedules, W-2 forms, or 1099 forms shall be considered incomplete and is not a valid filing of the annual return.
- D. Taxpayers with earnings in another State who have paid tax on those earnings to the other State, and are applying for credit for tax paid to the other State, must provide a copy of the State tax return for that State, plus their Pennsylvania personal income tax return. If the aforementioned State tax returns are not provided with the annual tax return, it will be considered as being incomplete and not a valid filing of the annual tax return.
- E. Estimates of income and or expenses by the taxpayer are not acceptable unless approved by the Officer.
- F. Should the taxpayer omit the required expense deduction forms or if the expense deduction forms are not fully completed, the expense deductions shall be disallowed and systematically denied without notification to the taxpayer. In the case where the omission of the required expense deduction forms and the subsequent denial of the expense deduction results in a balance of tax due, the taxpayer will be notified of the balance due.
- G. Taxpayers may not submit Federal Schedules in lieu of Pennsylvania Schedules C, E, F, G, I, UE, or RK-1 to the Officer. Any return received without such Pa schedules will be considered as an incomplete and invalid filing of the annual tax return.
- H. Taxpayers may not submit Schedule E in lieu of the applicable K-1 forms to the Officer. Annual tax returns received without the applicable K-1s will be considered as an incomplete and invalid filing of the annual tax return.
- J. Annual tax returns received by the Officer that are not signed and dated by the taxpayer filing the annual tax return will be considered as an incomplete and invalid filing of the annual tax return.
- K. Where no annual tax return is filed and/or the tax is not paid in full on or before the date due for the filing of the return, the taxpayer shall be liable for a five dollar (\$5.00) late fee. Where an annual tax return is filed on or before the date due, but is considered as an incomplete and invalid filing because of the failure of a taxpayer to comply with the requirements of this Section 509 and the taxpayer fails to amend or otherwise complete the return so as to comply with this Section 509 on or before the date due for the filing of the return, the Officer shall give the taxpayer written notice by United States certified mail of the reasons why the return is considered incomplete and invalid. The notice shall inform the taxpayer that he or she shall have fifteen (15) days from the date the notice is postmarked within which to amend or otherwise complete the return so as to comply with this Section 509, and file it with the Officer. If the taxpayer fails to amend or otherwise complete the return within said fifteen (15) day period, the taxpayer shall be liable for the five dollar (\$ 5.00) late fee. The filing fee shall be paid by the taxpayer in addition to any tax balance due, including any fines, penalties, interest, and postage expenses shall be paid whether or not all earned income/compensation tax may have been withheld by his or her employer and whether or not there is any tax balance due. It is the responsibility of each taxpayer to carefully review his or her return for compliance with this Section 509 before filing.

The volume of returns filed with the Officer prevents it from reviewing all returns for completeness within such time as will permit it to communicate with individual taxpayers that a return is incomplete before date on which the return is due. The late fee shall be paid to the Income Tax Officer notwithstanding claims that the incomplete return was filed sufficiently in advance of the due date such that the taxpayer should or could have been notified that the return was incomplete for the purpose of amending or completing the return on or before the due date.

In the case where a taxpayer remits a voluntary payment towards tax liability, unless specified by the taxpayer otherwise, the payment shall be prioritized as follows:

- (1) Tax
- (2) Interest
- (3) Penalty
- (4) Any other fees or charges

In the case where a taxpayer remits a payment towards the tax due as calculated on the annual tax return and that annual return is later found to be incomplete or not a valid filing of the annual tax return, as outlined above, the payment will be deposited towards the taxpayer's liability as an estimated tax payment to be reconciled upon the receipt of a complete and valid filing of the annual tax return by the aforementioned taxpayer.

The Officer may acquire Pennsylvania Department of Revenue Individual Income Tax information regarding earned income/compensation and net profits for audit and compliance purposes.

- L. The Income Tax Officer shall notify the taxpayer in writing of the basis for any underpayment that the Officer has determined to exist. The notification shall include:
- (1) The tax period or periods for which the underpayment is asserted.
  - (2) The amount of underpayment detailed by tax period.
  - (3) The legal basis upon which the Officer has relied to determine that an underpayment exists.
  - (4) An itemization of the revisions made by the Officer to a return or report filed by the taxpayer that results in the determination that an underpayment exists.

#### SECTION 510. WHO MUST FILE:

A. Every person who was:

- (1) A resident of the Taxing District who was employed or engaged in the operation of a business, profession, or other activity for income or profit; or
- (2) Non-resident of the Taxing District who was employed in the Taxing District or engaged in the operation of a business, profession, or other activity for income or profit in the Taxing District for all or any part of the preceding calendar year;

shall file with the Income Tax Officer an annual tax return showing all earned income/compensation and net profits received and/or earned for the previous year.

- B. Partial year residents are required to file an annual tax return for the applicable portion of the calendar year filed resided in the Taxing District.
- Taxpayers must file an annual tax return even though they may have had earned income/compensation tax withheld by an employer.
- D. Taxpayers who are on active duty within Pennsylvania must file an annual return each year. Taxpayers who are on active duty outside of Pennsylvania must file an annual tax return for the year in which they first entered the military on active duty and inform the Officer of their active duty military status. Upon completion of active duty military status outside Pennsylvania, these taxpayers shall resume filing annual tax returns.
- E. Taxpayers who are retired or permanently disabled and have no taxable earned income/compensation or net profits may be coded on the Income Tax Officer's files so as not to receive an annual tax form. The taxpayer must notify the Officer in writing and must also provide the effective date of retirement or permanent disability.
- F. Approximately every three to five years the Officer will send annual tax forms to all residents for the purpose of updating and verifying taxpayer files.

#### SECTION 511. REGISTRATION OF TAXPAYERS:

Every taxpayer who receives, or anticipates that he or she will receive, taxable earned income/compensation or net profits during the calendar year must register his or her name and resident address, his or her social security number and the name and address of his or her place of employment or business with the Officer. All taxpayers will thereafter be responsible for reporting changes in their name, place of residence or place of employment or business with the Officer.

#### SECTION 512. PARTIAL PAYMENT PLANS FOR DELINQUENT AMOUNTS:

The Officer may accept partial payments and/or enter into formal agreements with any taxpayer under which the taxpayer is permitted to satisfy liability for any eligible tax in installment payments if the Officer determines that the agreement will facilitate collection. The following terms and conditions shall apply to all partial payments and installment plans:

- A. The taxpayer must file an annual tax return for the current tax year and any delinquent tax years to be covered under the payment plan. These annual tax returns must include a copy of the taxpayer's PA-40 Tax Return and all supporting documentation as verification that all taxable income has been reported. In cases where a PA-40 tax Return cannot be produced, the taxpayer must complete a Federal Form 4506 "Request For Copies Of Tax Return" naming the IncomeTax Officer as recipient of the requested copy. The costs to procure the Federal Tax Return and related information are the sole responsibility of the taxpayer.
- B. Formal Payment Plans will not be approved for tax amounts less than \$200.00.
- C. Formal Payment Plans will not be approved for more than 8 months. Payment amounts will be calculated by dividing the total tax liability by 8 and adding the applicable penalty, interest, fines, and costs to each payment.

- D. A three dollar (\$3.00) handling fee shall be charged for any payment made on a delinquent account (whether or not such payment is pursuant to a formal agreement) which represents less than the full amount of tax, penalty, interest, and costs due.
- E. Formal Payment Plans will be revoked and immediate civil action for collection of the tax due will be initiated if any of the aforementioned terms and conditions are not met.
- F. The Officer may terminate any prior agreement if:
- (1) The information which the taxpayer provided to the Officer prior to the date of the agreement was inaccurate or incomplete, or
  - (2) If the Officer believes that collection of any eligible tax under the Formal Plan is in jeopardy.
- G. If the Officer finds that the financial condition of the taxpayer has significantly changed, the Officer may alter, modify or terminate the agreement, but only if:
- (1) Notice of the Officer's finding, is provided to the taxpayer no later than 30 days prior to the date of such action; and
  - (2) The notice contains the reasons why the Officer believes a change has occurred.
- H. The Officer may alter, modify or terminate a Formal Plan agreement if the taxpayer fails to do any of the following:
- (1) Pay any installment at the time the installment is due under the agreement.
  - (2) Pay any other tax liability at the time the liability is due.
  - (3) Provide a financial condition update as requested by the Officer.
- J. Nothing in this subsection shall prevent a taxpayer from prepaying in whole or in part any eligible tax under any formal or informal agreement with the Officer.

#### SECTION 513. SUIT FOR COLLECTION OF DELINQUENT AMOUNTS:

- A. The Officer may sue in the name of the Taxing District for the recovery of taxes, penalties, interest, and late filing fees due and unpaid under the Ordinances or Resolutions.
- B. Any suit brought to recover the tax, penalty, interest, and late filing fees imposed by the Ordinances or Resolutions shall be begun within three years after such tax is due, or within three 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 or her under provisions of the Ordinances or Resolutions, there shall be no limitation.

- (2) Where an examination of the declaration or return filed by any person, or of any other evidence relating to such declaration or return in the possession of the Officer, reveals a fraudulent evasion of taxes, there shall be no limitation.
  - (3) In the case of substantial understatement of tax liability of twenty-five percent or more and no fraud, suit shall be begun within six years.
  - (4) Where any person has deducted taxes under the provisions of the Ordinances or Resolutions, and has failed to pay the amounts so deducted to the Officer, or where any person has willfully failed or omitted to make the deductions required by the Ordinances or Resolutions, there shall be no limitation.
  - (5) This section shall not be construed to limit the Officer from recovering delinquent taxes by any other means provided by Act 511.
- C. The Officer may sue for recovery of an erroneous refund or credit provided such suit is begun two years after making such refund or credit, except that such suit may be brought within five years if it appears that any part of the refund or credit was induced by fraud or misrepresentation of material fact.

#### SECTION 514. WAGE ATTACHMENTS:

The Income Tax Officer shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms, or individuals, employing persons owing delinquent earned income/compensation taxes, or whose spouse owes delinquent earned income/compensation taxes, or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent earned income/compensation taxes, or whose spouse owes delinquent earned income/compensation taxes, upon the presentation of a written notice and demand certifying that the information contained therein is true and correct and containing the name of the taxable or the spouse thereof, and the amount of tax due. Upon presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions, or earnings of such individual employees, then owing or that shall within sixty (60) days thereafter become due or from any unpaid commissions or earnings of any such taxable in its or his or her possession, or that shall within sixty (60) days thereafter come into its or his or her possession, a sum sufficient to pay the respective amount of the delinquent earned income/compensation taxes, penalties, interest, late filing fees, and costs, shown upon written notice or demand, and to pay the same to the Officer sixty (60) days after such notice shall have been given. No more than ten percent of the wages, commissions or earnings of the delinquent taxpayer or spouse thereof may be deducted at any one time for delinquent earned income/compensation taxes, penalties, interest and late filing fees and costs. Such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding two percent of the amount of money so collected and paid over to the Officer. Upon the failure of any such corporation, political subdivision, association, company, firm, or individual to deduct the amount of such taxes, penalties, interest, late filing fees, and costs or to pay the same over to the tax collector, less the cost of bookkeeping

involved in such transaction, as herein provided, within the time required, such corporation, political subdivision, association, company, firm or individual shall forfeit and pay the amount of such tax, penalty, interest, late filing fee, and costs for each such taxable whose taxes, penalties, interest, late filing fees and costs are not withheld and paid over, or that are withheld and not paid over together with a penalty of ten percent added thereto, to be recovered by an action of assumpsit in a suit to be instituted by the Officer, or by the proper authorities of the taxing district, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law.

The Officer shall not proceed against a spouse or his or her employer until he has pursued collection remedies against the delinquent taxpayer and his or her employer under this section.

Upon presentation of a written notice and demand under oath or affirmation, to the State Treasurer or any other fiscal officer of the state, or its boards, authorities, agencies or commissions, it shall be the duty of the treasurer or officer to deduct from the wages then owing, or that shall within sixty days thereafter become due to any employee, a sum sufficient to pay the respective amount of the delinquent earned income/compensation tax, penalty, interest, late filing fee, and costs shown on the written notice. The same shall be paid to the taxing district in which said delinquent tax, penalty, interest, late filing fee was levied within sixty (60) days after such notice shall have been given.

The Officer shall, at least fifteen (15) days prior to the presentation of a written notice and demand to the State Treasurer or other fiscal officer of the State, or to any corporation, political subdivision, association, company or individual, notify the taxpayer owing the delinquent tax, penalty, interest, late filing fee, and costs by registered or certified mail that a written notice and demand shall be presented to his or her employer unless such tax, penalty, interest, late filing fee and costs are paid. The return receipt card for certified or registered mail shall be marked delivered to addressee only, and the cost of notification by certified or registered mail shall be added to the costs for collecting taxes, penalties, interest, and late filing fees.

#### SECTION 515. DELINQUENT TAX COLLECTION POSTAGE EXPENSE.

Whenever it shall become necessary for the income tax officer to notify a delinquent taxpayer by certified mail or to begin any action for wage attachment, the following provisions will apply:

- (A) The first letter will be mailed by first class postage at the prevailing postage rate.
- (B) The second letter, if required, will be mailed by certified mail, with return receipt at the prevailing postage rate. The second letter will also contain a "postage expense" amount which is to be included in the total amount due indicated on the second letter to the taxpayer.
- (C) The postage amount will change if the postal rate fee for these services is changed.
- (D) If a wage attachment is subsequently prepared, the postage expense will become a part of and shall be included in the \$40.00 wage attachment amount when the wage attachment is prepared and mailed to the employer.

**SECTION 516. INDEBTEDNESS AND PRIORITY CLAIMS:**

In bankruptcy cases the Priority Claim due to, or held by the income tax officer shall survive the confirmation of any bankruptcy claim and shall not be subject to discharge of debt to the extent that such claims are not paid by the bankruptcy plan of the debtor.

Amounts owing or which shall be determined to be due the income tax officer shall be the amount of the Priority Claim due to the income tax officer when a bankruptcy plan is filed with the Bankruptcy Court.

**SECTION 517. PROCEDURE WHEN TAXATION IS NOT DEFINED IN THESE RULES AND REGULATIONS.**

In cases where a question arises as to the taxation of earned income or net profits not specified in these rules and regulations, then the regulations promulgated by the Pennsylvania Department of Revenue for personal income taxes shall apply, so long as they are not contrary to the provisions of the Local Tax Enabling Act of 1965, as amended by Act 166 of December, 2002.

**SECTION 518 AMENDMENT TO RULES AND REGULATIONS:**

The Income Tax Officer or the Board of the Taxing District may propose additional, revised or modified regulations to the Taxing District as he or it deems necessary or beneficial in the proper administration and enforcement of the earned income/compensation and net profits tax Ordinances and Resolutions.