

Chapter 229

TAXATION

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[HISTORY: Adopted by the Borough Council of the Borough of Linesville as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Earned Income and Net Profits Tax

[Adopted 5-2-1966 by Ord. No. 164; amended in its entirety 11-1-2011 by Ord. No. 304-2011]

§ 229-1. Title.

The title of this article is the "Linesville Borough Earned Income and Net Profits Tax Ordinance."

§ 229-2. Purpose.

The purpose of this article is to continue, reaffirm and update the ordinance for the levy of the earned income and net profits tax to meet the existing requirements of the Local Tax Enabling Act as same has been and may be further amended.

§ 229-3. Authority.

This article is adopted pursuant to the authority of the Local Tax Enabling Act, Act 511 of 1965, as amended by Act 32 of 2008 and as otherwise amended, found at 53 P.S. § 6924.101 et seq.

§ 229-4. Definitions.

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

BOROUGH — Linesville Borough, its governing body and duly appointed representatives. It shall also mean "political subdivision" or "municipality" as those terms are used in this article.

EARNED INCOME — The compensation as required to be reported to or as determined by the Department of Revenue under Section 303 of the act known as the "Tax Reform Code of 1971," and rules and regulations promulgated under that section. Employee business expenses as reported to or determined by the Department of Revenue under Article III of the Tax Reform Code of 1971 shall constitute allowable deductions in determining earned income. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy should not be taxable as earned income.

EARNED INCOME AND NET PROFITS TAX or TAX — The tax levied on earned income and net profits under authority of the Local Tax Enabling Act.

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

LOCAL TAX ENABLING ACT (LTEA) — Act 511 of 1965, enacted December 31, 1965, P.L. 1257, as thereafter amended, and including Act 32 adopted July 2, 2008, as

thereafter amended, which Act is found at 53 P.S. § 6913 (until repealed effective June 30, 2012) and 53 P.S. § 6924.101 et seq., as same may be hereafter amended.

NET PROFITS — The net income from the operation of a business, other than a corporation, as required to be reported to or as determined by the Department of Revenue under Section 303 of the act known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section. The term does not include any:

- (1) Income which:
 - (a) Is not paid for services provided; and
 - (b) Is in the nature of earnings from an investment.
- (2) Income which represents:
 - (a) Any gain in the sale of farm machinery;
 - (b) Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes; and
 - (c) Any gain on the sale of other capital assets of a farm.

NONRESIDENT — A person or business domiciled outside the political subdivision levying the tax.

PERSON — A natural person.

RESIDENT — A person or business domiciled in the political subdivision levying the tax.

SUCCEEDING YEAR — The calendar year following the tax year.

TAX COLLECTION COMMITTEE or TCC — The committee established to govern the Crawford County Tax District for purpose of collection of the earned income and net profits tax.

TAX COLLECTION DISTRICT — The tax collection district established under Section 504 of the LTEA,¹ encompassing political subdivisions in Crawford County and surrounding counties.

TAX OFFICER — The person(s) or entity(ies) appointed by the Tax Collection Committee to collect the earned income and net profits tax for political subdivisions within the Crawford County Tax Collection District.

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

TAXPAYER — A person or business required under this article to file a return or to pay a tax.

1. Editor's Note: See 53 P.S. § 6924.504.

- B. The definitions as found in the Local Tax Enabling Act, as amended from time to time, are hereby incorporated herein by reference and shall be applied in the administration and enforcement of this article.

§ 229-5. Levy of earned income and net profits tax.

In accordance with the provisions of the Local Tax Enabling Act, Linesville Borough hereby levies and assesses a tax for general revenue purposes at the rate of 1% on the earned income and net profits, as defined, of residents of Linesville Borough, and on the earned income, as defined, received by nonresidents for work done or services performed or rendered in the Borough, and on the net profits of businesses, professions and other activities conducted in the Borough by nonresidents.

§ 229-6. Local Tax Enabling Act applicable.

This tax is imposed under authority of the Local Tax Enabling Act. All provisions of the Local Tax Enabling Act that govern the levy, administration and collection of the tax on earned income and net profits are incorporated into this article by reference as though set forth herein. Any future amendments to the Local Tax Enabling Act that are required to be applied to the levy and collection of a tax on earned income or net profits shall automatically become part of this article upon the effective date of such amendment, without the need for formal amendment of this article, to the maximum extent allowed by law.

§ 229-7. Tax levied for 2012 and each year thereafter.

The tax hereby levied and assessed shall be levied and assessed for the calendar year 2012 and each year thereafter, without annual reenactment or levy.

§ 229-8. Applicable laws, regulations, policies and procedures.

This tax shall be collected and administered in accordance with the applicable provisions of the Local Tax Enabling Act, other applicable laws and regulations; and regulations, policies and procedures adopted by this political subdivision, the Tax Collection Committee, or by the Tax Officer. This includes any regulations, policies, and procedures adopted in the future to the maximum extent allowed by law.

§ 229-9. Employer obligations.

Employers shall withhold, remit and report taxes imposed by this article as follows:

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within 15 days after becoming an employer, register with the Tax Officer the name and address of the employer and such other information as the Department of Community and Economic Development (DCED) may require.

- B. An employer shall require each new employee to complete a certificate of residency form, which shall be an addendum to the Federal Employees Withholding Allowance Certificate (Form W-4). An employer shall also require any employee who changes their address or domicile to complete a certificate of residency form. The certificate of residency form shall provide information to help identify the political subdivisions where an employee lives and works.
- C. Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district that employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall, at the time of payment, deduct from the compensation due each employee employed at such place of business the greater of the employee's resident tax or the employee's nonresident tax as released in the official register maintained by the DCED.
- D. Except as set forth in Subsection E below, within 30 days following the end of each calendar quarter, every employer shall file a quarterly return and pay the amount of taxes deducted during the preceding calendar quarter to the Tax Officer for the place of employment of each employee. The form shall show the name, address and social security number of each employee, the compensation of the employee during the preceding three-month period, the tax deducted from the employee, the political subdivisions imposing the tax upon the employee, the total compensation of all employees during the preceding calendar quarter, the total tax deducted from the employees and paid with the return, and any other information prescribed by the DCED.
- E. Notwithstanding Subsection D above, the provisions of this subsection shall apply if an employer has more than one place of employment in more than one tax collection district. Within 30 days following the last day of each month, the employer may file the return required by Subsection D and pay the total amount of taxes deducted from employees in all work locations during the preceding month to the Tax Officer for either the tax collection district in which the employer's payroll operations are located or as determined by the DCED. The return and taxes deducted shall be filed and paid electronically. The employer must file a notice of intention to file combined returns and make combined payments with the Tax Officer for each place of employment at least one month before filing its first combined return or making its first combined payment. This subsection shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.
- F. Any employer who, for two of the preceding four quarterly periods, has failed to deduct the proper tax, or any part of the tax, or has failed to pay over the proper amount of tax as required by Subsection C above to the tax collection district, may be required by the Tax Officer to file returns and pay the tax monthly. In such cases, payments of tax shall be made to the Tax Officer on or before the last day of the month succeeding the month for which the tax was withheld.
- G. On or before February 28 of the succeeding year, every employer shall file with the Tax Officer where taxes have been deducted and remitted pursuant to Subsection C above:
 - (1) An annual return showing, for the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of compensation

paid, the total amount of tax deducted, the total amount of tax paid to the Tax Officer and any other information prescribed by the DCED.

- (2) An individual withholding statement, which may be integrated with the Federal Wage and Tax Statement (Form W-2), for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the address and social security number, the amount of compensation paid to the employee during the period, the amount of tax deducted, the amount of tax paid to the Tax Officer, the numerical code prescribed by the DCED representing the tax collection district where the payments required by Subsections D and E above were remitted and any other information required by the DCED. Every employer shall furnish one copy of the individual withholding statement to the employee for whom it is filed.
- H. Any employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file returns and withholding statements required under this section and pay the tax due.
- I. Except as otherwise provided in Section 511 of the Local Tax Enabling Act (53 P.S. § 6924.511), an employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of taxes which the employer was required to withhold to the extent that the taxes have not been recovered from the employee. 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 for filing of declarations and returns.

§ 229-10. Taxpayer obligations.

Taxpayers shall declare and pay taxes as follows:

- A. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Tax Officer for the place of taxpayer's residence, a final return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the taxable income, the amount of tax paid, the amount of tax that has been withheld and the balance of tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final return, the taxpayer shall pay the Tax Officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
- B. Every taxpayer making net profits shall, by April 15 of the current year, make and file with the Tax Officer for the place of taxpayer's residence a declaration of the taxpayer's estimated net profits during the period beginning January 1 and ending December 31 of the current year, and shall pay to the Tax Officer in four equal quarterly installments the tax due on the estimated net profits. The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.

- C. Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the Tax Officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.
- D. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Tax Officer for the place of taxpayer's residence a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due on the net profits and the total amount of tax paid. At the time of filing the final return, the taxpayer shall pay to the Tax Officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated tax, elect to make and file with the resident Tax Officer on or before January 31 of the succeeding year, the final return.
- E. The DCED, in consultation with the Department of Revenue, shall provide by regulation for the filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration required under this subsection anticipates additional net profits not previously declared or has overestimated anticipated net profits.
- F. Every taxpayer who discontinues business prior to December 31 of the current year, shall, within 30 days after the discontinuance of business, file a final return as required under this section and pay the tax due.
- G. Every taxpayer who receives any other taxable income not subject to withholding under the Local Tax Enabling Act² shall make and file with the Tax Officer for the place of taxpayer's residence a quarterly return on or before April 15 of the current year, June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, setting forth the aggregate amount of taxable income not subject to withholding by the taxpayer during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to tax, together with such other information as the department may require. Every taxpayer filing a return shall, at the time of filing the return, pay to the Tax Officer the amount of tax due. The department shall establish criteria under which the Tax Officer may waive the quarterly return and payment of the tax and permit a taxpayer to file the receipt of taxable income on the taxpayer's annual return and pay the income tax due on or before April 15 of the succeeding year.
- H. For a taxpayer whose fiscal year is not a calendar year, the Tax Officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar year taxpayer.

2. Editor's Note: See 53 P.S. § 6924.101 et seq.

§ 229-11. Tax Officer responsibilities.

The Tax Officer appointed by the Tax Collection Committee is hereby authorized and directed to take such actions to collect and remit the earned income and net profits tax hereby levied as are authorized by the Local Tax Enabling Act,³ as amended from time to time, and shall carry out those responsibilities in accordance with the requirements of the Local Tax Enabling Act.

§ 229-12. Actions of Tax Officer to collect unpaid tax.

The Tax Officer is hereby authorized to take any and all actions authorized by the Local Tax Enabling Act as amended from time to time, and as otherwise permitted by law to determine and to collect taxes owed.

§ 229-13. Interest and penalties against the taxpayer.

- A. Except as provided in Subsection B below, if the tax is not paid when due, interest at the rate the taxpayer is required to pay to the commonwealth under Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176),⁴ known as "the Fiscal Code," on the amount of the tax, and an additional penalty of 1% of the amount of the unpaid tax for each month or fraction of a month during which the tax remains unpaid shall be added and collected but the amount shall not exceed 15% in the aggregate. Where an action is brought for the recovery of the tax, the taxpayer liable for the tax shall, in addition, be liable for the costs of collection, interest and penalties.
- B. The Tax Officer, with the concurrence of the Tax Collection Committee, may abate interest or penalties that would otherwise be imposed for the nonreporting and underreporting of income tax liabilities or for the nonpayment of taxes previously imposed and due if the taxpayer voluntarily files delinquent returns and pays the taxes in full. The provisions of this subsection shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under this article, or prevent the commencement or further prosecution of any proceedings by the proper authorities for violations of this article.

§ 229-14. Violations and penalties.

- A. Any taxpayer who fails, neglects or refuses to make any declaration or return required by this article, any employer who fails, neglects or refuses to register, keep or supply records or returns required by the LTEA or to pay the tax deducted from employees, or fails, neglects or refuses to deduct or withhold the tax from employees, any taxpayer or employer who refuses to permit the Tax Officer appointed by a tax collection committee or an employee or agent of the Tax Officer to examine books, records and papers, and any taxpayer or employer who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of income in order to avoid the payment of income taxes shall, upon conviction thereof,

3. Editor's Note: See 53 P.S. § 6924.101 et seq.

4. Editor's Note: See 72 P.S. § 806.

be sentenced to pay a fine of not more than \$2,500 for each offense and reasonable costs, and in default of the payment of said fine and costs, to imprisonment for not more than six months.

- B. Any employer required under this article to collect, account for and distribute taxes who willfully fails to collect or truthfully account for and distribute taxes, commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding \$25,000 or to imprisonment not exceeding two years, or both.
- C. The penalties imposed under this section shall be in addition to any other costs and penalties imposed by this article.
- D. The failure of any person to obtain forms required for making the declaration or returns required by this article shall not excuse the person from making the declaration or return.

§ 229-15. Repeal of inconsistent ordinances.

All ordinances and parts of ordinances inconsistent with this article are hereby repealed effective January 1, 2012, and all ordinances previously adopted by or in effect in this political subdivision which purport to levy or assess a tax on earned income or net profits are hereby repealed and superseded by this article effective January 1, 2012, except that provisions relating to the reporting and collection of taxes imposed in tax years preceding 2012 shall, as applicable, remain in effect.

§ 229-16. When effective.

This article shall be effective at the earliest possible time permitted in accordance with the applicable provisions of the laws governing this political subdivision and the tax hereby levied shall be effective for calendar year 2012 and each year thereafter.

ARTICLE II

Per Capita Tax

[Adopted 12-4-1967 by Ord. No. 174]

§ 229-17. Imposition of tax. ⁵

There is hereby levied, assessed and imposed upon all inhabitants of the Borough of Linesville, Crawford County, Pennsylvania, over the age of 21 years a per capita tax at the rate of \$5 per annum for the year 1968 and for each year thereafter.

§ 229-18. Exemption. ⁶

Any person whose total income from all sources is less than \$12,000 is exempt from this tax.

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

6. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 229-19. Collection.

Said tax shall be collected by the Tax Collector of said Borough in the same manner as similar taxes are now collected according to law.

§ 229-20. Violations and penalties. ⁷

Any person who shall violate the provisions of this article shall, in a summary proceeding before a Magisterial District Judge and upon conviction thereof, be sentenced to pay a fine of not more than \$600, plus costs of prosecution, and, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days.

ARTICLE III
Realty Transfer Tax
[Adopted 9-9-2006 by Ord. No. 285]

§ 229-21. Imposition of tax.

The Borough of Linesville adopts the provisions of Article XI-D of the Tax Reform Code of 1971⁸ and imposes a realty transfer tax as authorized under that article subject to the rate limitations therein. The tax imposed under this article shall be at the rate of 1%.

§ 229-22. Administration.

The tax imposed under § 229-21 and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965 (P.L. 1257, No. 511, as amended, known as "The Local Tax Enabling Act");⁹ provided, that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Borough of Linesville, pursuant to Section 1102-D of the Tax Reform Code of 1971 (72 P.S. § 8102-D), authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect, and enforce the tax, interest and penalties.

§ 229-23. Interest.

Any tax imposed under § 229-21 that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. § 7101 et seq.), as amended, known as "The Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. § 806), as amended, known as "The Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

7. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

8. Editor's Note: See 72 P.S. § 8101-D et seq.

9. Editor's Note: See 53 P.S. § 6924.101 et seq.

ARTICLE IV

Local Services Tax

[Adopted 12-11-2007 by Ord. No. 292]

§ 229-24. 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:

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

DCED — The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

EARNED INCOME — Compensation as this term is defined in Section 13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.

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

HE, HIS or HIM — Indicates the singular and plural number, as well as male, female and neuter genders.

INDIVIDUAL — Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.

NET PROFITS — The net income from the operation of a business, profession; or other activity, as this term is defined in Section 13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1251, § 13, as amended, 53 P.S. § 6913, as amended.

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

POLITICAL SUBDIVISION — The area within the corporate limits of the Borough of Linesville.

TAX — The local services tax at the rate fixed in § 229-26 of this article.

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

§ 229-25. Levy of tax.

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

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

§ 229-26. Exemption and refunds.

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

- (1) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total 100% disability.
- (2) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subsection, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

B. Procedure to claim exemption.

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

from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the form provided by the political subdivision.

- (2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the municipality in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person under Subsection B(3).
 - (3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under Subsection B(2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under Subsection B(2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per-payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this article.
 - (4) Except as provided in Subsection B(2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.
- C. Refunds. The Borough of Linesville, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The Borough of Linesville or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

§ 229-27. Duty of employers to collect.

- A. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.
- B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll-period basis for each payroll period in which the person is engaging in an occupation, except as provided in Subsection D of this section. For purposes of this subsection, "combined rate" shall mean the aggregate annual rate of the tax levied by the school district and the municipality.
- C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
- D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by the Borough of Linesville.
- E. The tax shall be no more than \$25 on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or plates of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of § 229-26B of this article and this section and remits the amount so withheld in accordance with this article.
- G. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of a calendar year.

§ 229-28. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

§ 229-29. Dates for determining tax liability and payment.

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the 30th day following the end of each calendar quarter of each such tax year.

§ 229-30. Self-employed individuals.

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this article and pay the pro rata portion of the tax due to the Collector on or before the 30th day following the end of each quarter.

§ 229-31. Individuals engaged in more than one occupation or employed in more than one political subdivision.

- A. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:
- (1) First, the political subdivision in which a person maintains his or her principal office or is principally employed;
 - (2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
 - (3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.
- B. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

§ 229-32. Nonresidents subject to tax.

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

any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§ 229-33. Administration of tax.

- A. The Collector shall be appointed by resolution of the political subdivision. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer of 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, subject to municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of 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 any decision of the Collector shall have the right to appeal to the Court of Common Pleas of Crawford 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.

§ 229-34. Suits for collection.

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.
- B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

§ 229-35. Violations and penalties.

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or

whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

§ 229-36. Interpretation.

- A. Nothing contained in this article shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
- B. If the tax hereby imposed 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 laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

§ 229-37. Effect on other provisions.

Except as set forth hereafter, all ordinances or parts of ordinances inconsistent herewith are hereby repealed. Nothing herein shall be construed to repeal the imposition and collection of an occupation privilege tax, plus applicable penalties and interest, for calendar year 2005 and all prior calendar years, or of an emergency and municipal services tax, plus applicable penalties and interest, for calendar years 2006 and 2007, as the same may have existed prior to this article.

§ 229-38. Effective date.

The tax imposed by this article shall be effective on January 1, 2008, and all calendar years thereafter unless repealed or modified by ordinance of the Borough of Linesville.