

Chapter 24

Taxation; Special

Part 1

Earned Income and Net Profits Tax

- §24-101. Definitions
- §24-102. Imposition of Tax
- §24-103. Declaration and Payment of Tax
- §24-104. Withholding and Remittance
- §24-105. Powers and Duties of Tax Officer
- §24-106. Compensation of Income Tax Officer
- §24-107. Applicability
- §24-108. Effective Date, Repealer, Conflict

Part 2

Realty Transfer Tax

- §24-201. General
- §24-202. Administration, Collection and Enforcement of Interest and Penalties
- §24-203. Interest

Part 3

Discounts and Penalties

- §24-301. Discounts and Penalties
- §24-302. Effective Period

Part 4

Tax Certification Authorization

- §24-401. Short Title
- §24-402. Requests for Tax Certification
- §24-403. Authorized Township Official to Provide Certifications and Collect Required Fee
- §24-404. Fee for Tax Certification
- §24-405. Form of Certification

Part 5

Local Taxpayers Bill of Rights

- §24-501. General

Schedule 24-5-1

Rules and Regulations for Compliance with the Local Taxpayers Bill of Rights

Schedule 24-5-2
Disclosure Statement under this Local Taxpayers Bill of Rights

Schedule 24-5-3
Petition for Appeal and Refund

Schedule 24-5-4
Administrative Appeal Procedures Applicable to
Petitions for Appeal and Refund

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

Article XIII tax officer—the tax officer authorized by the Township to collect income taxes levied prior to January 1, 2012.

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

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

Certified public accountant or public accountant—a certified public accountant, public accountant or firm, as provided for in the Act of May 26, 1947 (P.L. 318, No. 140), known as the CPA Law.

Claim—a written demand for payment made by a tax officer or tax collection district for income taxes collected by another tax officer or tax collection district.

Corporation—a corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency. The term shall include an entity which is classified as a corporation for Federal income tax purposes.

Current year—the calendar year for which the tax is levied.

Department—the Department of Community and Economic Development of the Commonwealth.

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

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

Earned income and net profits tax—the tax levied by the Township on earned income

and net profits.

Employer—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 under this Part, the term includes a corporate officer.

Income tax—except as set forth in §511(b) of the Local Tax Enabling Act, P.L. 1257, Act 511 of 1965, as amended (hereinafter the “LTEA”), 53 P.S. §6924.511(b), an earned income and net profits tax, personal income tax or other tax that is assessed on the income of a taxpayer levied by the Township under the authority of this Act or any other act.

Joint tax collection committee—an entity formed by two or more tax collection committees for the purpose of income tax collection in more than one tax collection district.

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

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

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

Nonresident—a person or business domiciled outside the Township levying the tax.

Nonresident tax—an income tax levied by the Township on nonresidents.

Official register—the part of the tax register that includes withholding tax rates as provided in §511(a)(3) of the LTEA, 53 P.S. §6924.511(a)(3).

Person—a natural person.

Preceding year—the calendar year before the current year.

Private agency—a business entity or person appointed as a tax officer by a tax collection committee.

Public agency—any and all public bodies, authorities, agencies, instrumentalities, political subdivisions, intermediate units, councils, boards, commissions or similar governmental entities.

Resident—a person or business domiciled in the Township levying the tax.

Resident tax—an income tax levied by the Township.

Resident tax officer—the tax officer administering and collecting income taxes for the

tax collection district in which a taxpayer is domiciled.

Succeeding year—the calendar year following the current year.

Tax bureau—a public nonprofit entity established for the administration and collection of taxes.

Tax collection committee—the committee established to govern the Lehigh Tax Collection District for the purpose of income tax collection. The term shall include a joint tax collection committee.

Tax Collection District—the Lehigh Tax Collection District established under §504 of the LTEA.

Tax officer—a political subdivision, public employee, tax bureau, county, except a county of the first class, or private agency which administers and collects income taxes for one or more tax collection districts. Unless otherwise specifically provided, for purposes of the obligations of an employer, the term shall mean the tax officer for the tax collection district within which the employer is located, or, if an employer maintains workplaces in more than one district, the tax officer for each such district with respect to employees principally employed therein.

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

Tax register—a database of all county, municipal and school tax rates available on the internet as provided in §511(a)(1) of the LTEA, 53 P.S. §6924.511(a)(1).

Taxable income—includes:

A. In the case of an earned income and net profits tax, earned income and net profits.

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

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

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

(Ord. 2011-2, 11/10/2011)

§24-102. Imposition of Tax.

The tax levied under this Part shall be applicable to earned income received and to net profits earned in the period beginning January 1, of the current year, and ending December 31, of the current year or for taxpayer fiscal years beginning in the current year, except that taxes imposed for the first time shall become effective from the date specified in the ordinance or resolution, and the tax shall continue in force on a

calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed. Changes in rate shall become effective on the date specified in the ordinance. A tax for general revenue purposes of 1 percent is hereby imposed on the following:

A. Earned income, as defined by this Part, received by residents of the Township on or after January 1, 2012.

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

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

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

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

(Ord. 2011-2, 11/10/2011)

§24-103. Declaration and Payment of Tax.

1. Application.

A. Income taxes shall be applicable to taxable income earned or received based on the method of accounting used by the taxpayer in the period beginning January 1 of the current year and ending December 31 of the current year, except that taxes imposed for the first time and changes to existing tax rates shall become effective on January 1 or July 1, as specified in the ordinance, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed.

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

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

in calculating the number of months in the new domicile.

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

(1) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident tax officer, a final return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the taxable income, the amount of tax paid, the amount of tax that has been withheld under §512 of the LTEA, 53 P.S. §6924.512, and the balance of tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final return, the taxpayer shall pay the resident tax officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

(2) Every taxpayer making net profits shall, by April 15 of the current year, make and file with the resident tax officer 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 resident tax officer in four equal quarterly installments the tax due on the estimated net profits. The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.

(3) Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the resident tax officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.

(4) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident tax officer a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due on the net profits and the total amount of tax paid. At the time of filing the final return, the taxpayer shall pay to the resident tax officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated tax, elect to make and file with the resident tax officer on or before January 31 of the succeeding year, the final return.

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

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

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

(Ord. 2011-2, 11/10/2011)

§24-104. Withholding and Remittance.

For taxable years commencing on and after January 1, 2012, or earlier taxable years if specified by a tax collection district, income taxes shall be withheld, remitted and reported as follows:

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

B. An employer shall require each new employee to complete a certificate of residency form, which shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form 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 subdivision where an employee lives and works. Forms of certificate of residency may be obtained by an employer from the Department upon request by an employer.

C. Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district that employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall, at the time of payment, deduct from the compensation due each employee employed at such place of business the greater of the employee's resident tax or the employee's nonresident tax as released in the official register under §511 of the LTEA, 53 P.S. §6924.511.

D. Except as set forth in paragraph .E, within 30 days following the end of

each calendar quarter, every employer shall file a quarterly return and pay the amount of income taxes deducted during the preceding calendar quarter to the tax officer for the place of employment of each employee. The form shall show the name, address and Social Security number of each employee, the compensation of the employee during the preceding 3-month period, the income tax deducted from the employee, the political subdivision imposing the income tax upon the employee, the total compensation of all employees during the preceding calendar quarter, the total income tax deducted from the employees and paid with the return and any other information prescribed by the Department.

E. Notwithstanding paragraph .D, the provisions of this paragraph shall apply if an employer has more than one place of employment in more than one tax collection district. Within 30 days following the last day of each month, the employer may file the return required by paragraph .D and pay the total amount of income taxes deducted from employees in all work locations during the preceding month to the tax officer for either the tax collection district in which the employer's payroll operations are located or as determined by the Department. The return and income taxes deducted shall be filed and paid electronically. The employer must file a notice of intention to file combined returns and make combined payments with the tax officer for each place of employment at least 1 month before filing its first combined return or making its first combined payment. This paragraph shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.

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

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

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

(2) An individual withholding statement, which may be integrated with the Federal Wage and Tax Statement (Form W-2), for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the address and Social Security number, the amount of compensation paid to the employee during the period, the amount of income tax deducted, the amount of income tax paid to the tax officer, the numerical code prescribed by the Department representing the tax collection district where the payments required by paragraphs .D and .E were remitted and any other information required by the Department. Every employer shall furnish one copy of the individual

withholding statement to the employee for whom it is filed.

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

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

(Ord. 2011-2, 11/10/2011)

§24-105. Powers and Duties of Tax Officer.

1. *Tax Collection.* In addition to any other power and duty conferred upon a tax officer in this Part, it shall be the duty of the tax officer:

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

B. To receive and distribute income taxes and to enforce withholding by employers located in the tax collection district.

C. To receive income taxes distributed by tax officers for other tax collection districts.

D. To distribute income taxes to the Township as required by §513 of the LTEA, 53 P.S. §6924.513.

E. To comply with all regulations adopted by the Township under this Part and all resolutions, policies and procedures adopted by the tax collection committee.

F. To invest all income taxes in the custody of the tax officer in authorized investments, subject to the approval of the tax collection committee. The tax officer shall observe the standard of care that would be observed by a prudent person dealing with property of another. For the purposes of this paragraph, the term “authorized investment” shall include all of the following:

(1) Short-term obligations of the United States Government or its agencies or instrumentalities which are backed by the full faith and credit of the United States or are rated in the highest category by a nationally recognized statistical rating organization.

(2) Deposits in savings accounts, time deposits, share accounts or certificates of deposit of institutions, insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, or their successor agencies, to the extent that the accounts are insured and, for the amount above the insured maximum, that collateral, free from other liens, for the amount is pledged by the depository institution.

(3) Deposits in investment pools established by the State Treasurer or

established by local governments pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) and related statutes, provided that the investment pools are rated in the highest category by a nationally recognized statistical rating organization.

(4) Repurchase agreements which are fully collateralized by obligations of the United States Government or its agencies or instrumentalities, which are free from other liens and backed by the full faith and credit of the United States or are rated in the highest category by a nationally recognized statistical rating organization.

G. To distribute income generated from investments authorized under paragraph .F as determined by the tax collection committee.

2. *Monthly Reports.* The tax officer shall, within 20 days after the end of each month, provide a written report, on forms prescribed by the Department, to the secretary of the tax collection committee and to the secretary of the Township for which taxes were collected during the previous month. The report shall include a breakdown of all income taxes, income generated from investments under subsection .1.F, penalties, costs and other money received, collected, expended and distributed for each political subdivision served by the tax officer and of all money distributed to tax officers for other tax collection districts.

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

4. *Bonds.* Prior to initiating any official duties, each tax officer shall give and acknowledge a bond to the appointing tax collection committee as follows:

A. The tax collection committee shall fix the amount of the bond in an amount equal to the maximum amount of taxes that may be in the possession of the tax officer at any given time or an amount sufficient, in combination with fiscal controls, insurance and other risk management and loss prevention measures used by the tax collection district, to secure the financial responsibility of the tax officer in accordance with guidelines adopted by the Department. The amount of the bond shall be revised annually by the tax collection committee based upon the annual examination required under §505(h) of the LTEA, 53 P.S. §6924.515(h).

B. Each bond shall be joint and several, with one or more corporate sureties, which shall be surety companies authorized to do business in this Commonwealth and licensed by the insurance department.

C. Each bond shall be conditioned upon the completion of all of the following by the tax officer's employees and appointees:

(1) The faithful execution of all duties required of the tax officer.

(2) The just and faithful accounting or payment over of all moneys and balances paid to, received or held by the tax officer by virtue of the office in accordance with law.

(3) The delivery of all tax records or other official items held in right as the tax officer to the tax officer's successor in office.

D. Each bond shall be taken in the name of the tax collection district and shall be for the use of the tax collection district appointing the tax officer, and for

the use of any other political subdivision or tax collection district for which income taxes shall be collected or distributed in case of a breach of any conditions of the bond by the acts or neglect of the principal on the bond.

E. The tax collection committee or any political subdivision may sue upon the bond for the payment or distribution of income taxes.

F. Each bond shall contain the name of the surety company bound on the bond.

G. The tax collection committee may, upon cause shown and due notice to the tax officer and the tax officer's sureties, require or allow the substitution or the addition of a surety company acceptable to the tax collection committee for the purpose of making the bond sufficient in amount, without releasing the sureties first approved from any accrued liability or previous action on the bond.

H. The tax collection committee shall designate the custodian of the bond.

I. The tax officer shall file copies of all bonds in effect with the Township.

J. A copy of all bonds in effect shall be made available upon request and at no cost to the Department or to a tax collection district or political subdivision seeking payment or distribution of income taxes authorized by this Part.

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

6. *Employer and Taxpayer Audits.*

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

(1) An employer.

(2) A taxpayer.

(3) A person whom the tax officer reasonably believes to be an employer or taxpayer.

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

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

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

7. *Exchange of Information.*

A. The tax officer shall ensure that the tax collection district enters into an agreement with the Department of Revenue for the exchange of information as necessary for the collection of income taxes.

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

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

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

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

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

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

- (1) Except as set forth in subparagraph (2), within 2 years after making the refund.
- (2) If it appears that any part of the refund was induced by fraud or misrepresentation of material fact, within 5 years after making the refund.

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

- (1) A taxpayer fails to file a declaration or return required under this Part.
- (2) An examination of a declaration or return or of other evidence in the possession of the tax officer relating to the declaration or return reveals a fraudulent evasion of income taxes.
- (3) An employer has deducted income taxes under §512 of the LTEA, 53 P.S. §6924.512, and has failed to pay the amount deducted by the tax officer.
- (4) An employer has intentionally failed to make deductions required by this Part.

9. *Interest and Penalties.*

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

B. The Department may establish conditions under which a tax officer, with the concurrence of the tax collection committee, may abate interest or penalties that would otherwise be imposed for the nonreporting or underreporting of income tax liabilities or for the nonpayment of income taxes previously imposed and due if the taxpayer voluntarily files delinquent returns and pays the income taxes in full.

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

10. *Fines and Penalties for Violations.*

A. Any taxpayer who fails, neglects or refuses to make any declaration or return required by this Part, any employer who fails, neglects or refuses to register, keep or supply records or returns required by §512 of the LTEA, 53 P.S. §6924.512, or to pay the income tax deducted from employees, or fails, neglects or refuses to deduct or withhold the income tax from employees, any taxpayer or employer who refuses to permit the tax officer appointed by a tax collection committee or an employee or agent of the tax officer to examine books, records and papers, and any taxpayer or employer who knowingly 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, be sentenced to pay a fine of not more than \$2,500 for each offense and reasonable costs, and in default of payment of said fine and costs, to imprisonment for not more than 6 months.

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

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

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

making the declaration or return.

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

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

13. *Confidentiality.*

A. *General Rule.* Any information gained by a tax officer or any employee or agent of a tax officer or of the tax collection committee as a result of any declarations, returns, investigations, hearings or verifications shall be confidential tax information.

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

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

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

(Ord. 2011-2, 11/10/2011)

§24-106. Compensation of Income Tax Officer.

The tax officer shall receive such compensation for his services and expenses as determined by the tax collection committee. At the discretion of the tax collection committee, the tax officer may be permitted to withhold the amount of the tax officer's compensation from income taxes collected if the monthly reports require by §509(b) of

the LTEA, submitted by the tax officer include an accounting for all compensation withheld.

(*Ord. 2011-2, 11/10/2011*)

§24-107. Applicability.

The tax imposed by this Part shall not apply:

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

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

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

(*Ord. 2011-2, 11/10/2011*)

§24-108. Effective Date, Repealer, Conflict.

1. The provisions of this Part shall take effect on January 1, 2012, and shall apply to earned income received or earned and net profits earned or made by a taxpayer during calendar year 2012 and each year thereafter without annual reenactment unless the rate of tax is subsequently changed. Changes in the rate of tax shall become effective on the date specified in the ordinance.

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

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

4. This Part is enacted under authority of the LTEA, and all provisions thereof that relate to a tax on earned income or net profits are incorporated into this Part. Any future amendments to the LTEA that are required to be applied to a tax on earned income or net profits will automatically become part of this Part upon the effective date of such amendment, without the need for formal amendment of this Part, to the maximum extent allowed by 1 Pa.C.S.A. §1937.

(*Ord. 2011-2, 11/10/2011*)

Part 2**Realty Transfer Tax****§24-201. General.**

The Township adopts the provisions of Article XI-D of the Tax Reform Code of 1971 and imposes a realty transfer tax as authorized under that Article subject to the rate limitations therein. The tax imposed under this Section shall be at the rate of 1 percent. (*Ord. 2006-3, 12/14/2006, §1*)

§24-202. Administration, Collection and Enforcement of Interest and Penalties.

The tax imposed under §24-201 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"; provided, that if the correct amount of the tax is not paid by the last date prescribed for timely payment, Township, pursuant to §1102-D of the Tax Reform Code of 1971, 71 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.

(*Ord. 2006-3, 12/14/2006, §2*)

§24-203. Interest.

Any tax imposed under §24-201 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 §806 of the Act of April 9, 1929, P.L. 343, No. 176, 72 P.S. §806, as amended, known as the "Financial Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

(*Ord. 2006-3, 12/14/2006, §3*)

Part 3**Discount and Penalties****§24-301. Discounts and Penalties.**

The rates of discounts and penalties of all taxes imposed by the Township shall be as hereinafter set forth:

A. All taxpayers subject to the payment of taxes assessed by the Township, shall be entitled to a discount of 2 percent from the amount of such tax upon making payment of the whole amount thereof within 2 months after the date of the tax notice.

B. All taxpayers who shall fail to make payment of any such taxes charged against them for 4 months after the date of the tax notice, shall be charged a penalty of 10 percent, which penalty shall be added to the taxes by the responsible Tax Collector, and shall be collected by him.

(Ord. 5-77, 10/7/1977, §1)

§24-302. Effective Period.

This Part shall be effective for the calendar year 1978, and each calendar year thereafter.

(Ord. 5-77, 10/7/1977, §2)

Part 4**Tax Certification Authorization****§24-401. Short Title.**

This Part shall be known as the “Tax Certification Authorization Ordinance of Heidelberg Township.”

(*Ord. 1-91, 3/14/1991, §1*)

§24-402. Requests for Tax Certification.

All requests for tax certification shall be in writing and shall include the current property owner, the current Lehigh County tax parcel ID number, the required fee, and a self-addressed, stamped envelope for the return of the tax certification to the applicant.

(*Ord. 1-91, 3/14/1991, §3*)

§24-403. Authorized Township Official to Provide Certifications and Collect Required Fee.

The locally elected Township Tax Collector is hereby designated as the Township official authorized to provide tax certifications upon request and is hereby authorized to collect, and retain as compensation for providing such additional services, the fee to be set by the Township Board of Supervisors.

(*Ord. 1-91, 3/14/1991, §4*)

§24-404. Fee for Tax Certification.

The fee for the tax certificate and certification shall be set by the Township Board of Supervisors by a duly enacted resolution.

(*Ord. 1-91, 3/14/1991, §5*)

§24-405. Form of Certification.

The request for a tax certification shall be on a form approved by the Heidelberg Township Board of Supervisors. Tax certifications will only be provided for the current calendar year. Previous years' taxes may only be verified by the Tax Claim Bureau of Lehigh County.

(*Ord. 1-91, 3/14/1991, §6*)

Part 5**Local Taxpayers Bill of Rights****§24-501. General.**

1. The rules and regulations attached hereto as Schedule 24-5-1 and incorporated herein are hereby approved and adopted.

2. The disclosure statement, substantially in the form set forth in Schedule 24-5-2 attached hereto and incorporated herein, is hereby approved and adopted.

3. The form of petition for appeal and refund, substantially in the form set forth in Schedule 24-5-3 attached hereto and incorporated herein, is hereby approved and adopted.

4. Heidelberg Township hereby determines that administrative appeal procedures relating to petitions for appeal and refund submitted by taxpayers in connection with the assessment, determination or refund of an eligible tax under the LTBR shall be undertaken by Appeals Board.

5. Heidelberg Township hereby appoints Heidelberg Township Board of Supervisors to the Appeals Board.

6. The administrative appeal procedures set forth in the rules and regulations and substantially in the form set forth in Schedule 24-5-4, attached hereto and incorporated herein, are hereby approved and adopted.

7. This Part shall become effective in accordance with the provisions of law and shall be applicable retroactively to eligible taxes as of January 1, 1999.

(Ord. 2008-3, 12/11/2004)

Schedule 24-5-1

Rules and Regulations for Compliance with the Local Taxpayers Bill of Rights

Introduction.

The Local Taxpayers Bill of Rights, enacted as part of Act 50 of 1998 (hereinafter the "LTBR"), requires that every political subdivision levying an eligible tax adopt regulations governing the administration and collection of the tax, and setting forth a process for handling appeals from decisions on assessments and refunds. This document provides the regulations required by the LTBR. The disclosure statement also required by the LTBR is provided in a separate document, which is available upon request of the Tax Administrator.

Definition.

Appeals board—the Board of Supervisors in executive session.

Assessment—the determination by the Tax Administrator of the amount of underpayment by a taxpayer.

Eligible tax—any of the following taxes specified within the term "eligible tax" under the LTBR, including interest and penalties provided by law, when levied by the Board of Supervisors of the Township of Heidelberg, but specifically not including any real estate tax:

- A. Any tax authorized or permitted under the Act of December 31, 1965, P.L. 1257, No. 511, known as the Local Tax Enabling Act or Act 511.
- B. Any per capita tax.
- C. Any occupation, occupation assessment or occupation privilege tax.
- D. Any tax levied on income.
- E. Any tax measured by gross receipts.
- F. Any tax on a privilege.
- G. Any tax on amusements or admissions.
- H. Any tax on earned income and net profits.

Local government—Heidelberg Township.

Local Taxpayers Bill of Rights—subchapter C of Act 50 of 1998 of the Pennsylvania General Assembly, 53 Pa.C.S.A. §§8421 *et seq.*

Overpayment—any payment of tax which is determined in the manner provided by law not to be legally due.

Petition—the petition for appeal and refund described in §103 of this Schedule.

Tax administrator—the employee, agent, appointed tax collector, elected tax collector, tax collection agency or other person to whom the Board of Supervisors of the Township of Heidelberg has assigned or delegated responsibility for the audits, assessment, determination or administration of an eligible tax. Under the LTBR, this Tax Administrator is also referred to and defined as the local taxing authority. In the case of the Township of Heidelberg, the Tax Administrator is EIT Officer for the

Heidelberg/Lynn EIT Bureau.

Taxpayer—as individual, partnership, association, corporation, limited liability company, estate, trust, trustee, fiduciary or any other entity subject to or claiming exemption from any eligible tax or under a duty to perform an act for itself or for another under or pursuant to the authority of an eligible tax levied by the Township of Heidelberg.

Underpayment—the amount or portion of any eligible 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 Tax Administrator is seeking to collect its delinquent eligible taxes or file a claim therefore.

§101. Requirements for Requests for Taxpayer Information.

1. Minimum Time Periods for Taxpayer Response.

A. The taxpayer shall have at least 30 calendar days from the mailing date to respond to requests for information by the Tax Administrator. The Tax Administrator shall grant a reasonable extension upon written application explaining the reason(s) necessitating the extension, which must amount to good cause. If the Tax Administrator denies a request for extension, the Tax Administrator must inform the taxpayer in writing of the basis for the denial and that the taxpayer must immediately provide the requested information. If the Tax Administrator grants an extension request, he must notify the taxpayer in writing of the amount of extension granted. Generally, an extension will not exceed 30 calendar days in length, and may be less, depending on the circumstances.

B. The Tax Administrator shall notify the taxpayer of the procedures to obtain an extension in its initial request for information. Please refer to the notice explaining the request for extension of time to provide information attached as Schedule 24-5-1.

C. The Tax Administrator shall take no lawful action against a taxpayer for the tax year in question until the expiration of the applicable response period for submission of the information requested, including extensions. For example, the Tax Administrator may not engage in any collection efforts until after expiration of the response period. After expiration of the response period, the Tax Administrator may engage in collection efforts permitted by the LTBR and discussed in §113 below.

2. Requests for Prior Year Tax Returns.

A. Except as provided in paragraph .B, an initial inquiry by the Tax Administrator regarding a taxpayer's compliance with any eligible tax may include taxes required to be paid or tax returns required to be filed nor more than 3 years prior to the mailing date of the notice.

B. The Tax Administrator may make an additional subsequent request for a tax return or supporting information if, after the initial request, the Tax Administrator determines that the taxpayer failed to file a tax return, under reported income or failed to pay a tax for one or more of the Tax Administrator should not make routine requests for additional prior year returns.

Notwithstanding the foregoing, the limitations in paragraph .B above on subsequent requests for prior year returns shall not apply if the Tax Administrator has sufficient information to indicate that the taxpayer failed to file a required return or to pay an eligible tax which was due more than 3 years prior to the date of the notice. Thus, in situations involving failure to file a required return or to pay a required eligible tax, the Tax Administrator shall, in his discretion, have the ability to request prior year returns due more than 3 years prior and supporting information.

3. *Use of Federal or State Tax Information.* The Tax Administrator may require a taxpayer to provide copies of the taxpayer's Federal individual income tax return if the Tax Administrator can demonstrate that the Federal tax information is reasonably necessary for the enforcement or collection of tax and the information is not available from other available sources or the Pennsylvania Department of Revenue. The Tax Administrator may also require a taxpayer to provide copies of the taxpayer's State individual income tax return.

§102. Notice of Basis of Underpayment.

The Tax Administrator must notify the taxpayer in writing of the basis for any underpayment that the Tax Administrator has determined to exist with respect to any eligible tax. The purpose of this notification is for the taxpayer to understand the exact reason why the Tax Administrator believes an underpayment exists. This notification from the Tax Administrator shall be written in a manner calculated to be understood by an average person. The notification must include:

- A. The tax period or periods (usually measured in calendar years) for which the underpayment is asserted.
- B. The amount of the alleged underpayment of the eligible tax detailed by tax period.
- C. The legal basis (including any statutory or case law citations) upon which the Tax Administrator has relied to determine that an underpayment of an eligible tax exists.
- D. An itemization of the changes made by the Tax Administrator to a return or report filed by the taxpayer that results in the determination that an underpayment exists. A copy of any revised return or report in the Tax Administrator's file must be provided to the taxpayer.

§103. Petitions for Appeals of Assessments or Refund of Taxes Paid.

1. *Filing of Petitions.* A taxpayer has the legal right to challenge an assessment or denial of a refund claim under the LTBR. However, a taxpayer has a right to one appeal only. If a taxpayer loses an assessment appeal, the taxpayer is not entitled to a second refund appeal after paying the tax. In addition, no administrative appeals are provided for other decisions including, but not limited to, the denial of an extension of time to provide information or the modification or termination of an installment agreement.

2. The LTBR requires political subdivisions to establish appeals procedures. In order to begin the appeals process, the taxpayer must file a complete and timely petition (the "petition"). A petition is timely filed if the letter transmitting the petition is postmarked by the United States Postal Service or actually received on or before the final day on which the petition is due. Receipts from carriers other than the United States Postal Service are not accepted as proof of timely filing. Deadlines for filing a

petition are as follows:

A. Petitions challenging the denial of a refund shall be filed within 3 years after the due date for filing the report or return as extended or 1 year after actual payment of the tax, whichever is later. If no report or return is required, the petition shall be filed within 3 years after the due date for payment of the eligible tax or within 1 year after actual payment, whichever is less.

B. Petitions for reassessment of tax shall be filed within 90 days of the date of the assessment notice which has been sent to the taxpayer by the Tax Administrator.

2. The Tax Administrator shall make available a form of petitions for appeal and refund attached to Schedule 24-5-2.

3. *Contents.* Any petition filed under subsection .2.A shall: (1) state the legal basis for claiming the refund or disagreeing with the Tax Administrator's assessment; (2) state the tax period or periods (i.e., years) to which it pertains; (3) state the amount of the claim and the type of eligible tax detailed by tax period; (4) include all supporting documentation and calculations; (5) provide the name, address and telephone number of the taxpayer's representative, if any; (6) include a statement certifying that the facts in the petition are true and correct, under penalty or perjury, and that the petition is not filed for purposes of delay; and; (7) include such other information (essentially identification) as is reasonably requested by the Tax Administrator on the petition for appeal and refund provided to taxpayer.

4. The taxpayer shall have his or her petition decided by the Board of Supervisors acting in executive session based solely on the petition and record (including information on file and information submitted by the taxpayer). No hearing, oral testimony or oral argument is required, but can be requested by the taxpayer. The Board of Supervisors may choose to grant a hearing in its sole discretion.

§104. Appeals Board/Hearing Officer.

An Appeals Board appointed by a governing body shall consist of at least three, but no more than seven members. The Appeals Board shall be appointed by the governing body of the municipality levying the eligible tax. Alternatively, the Appeals Board shall consist of the governing body acting in executive session, without any maximum or minimum limitation on the number of persons acting as the governing body, provided that a quorum exists. In this situation, the local government has chosen the Board of Supervisors (acting in executive session) as Appeals Board required by the LTBR.

A. The decision by the governing body acting in executive session shall be based solely on the petition and record. Decisions on petitions shall be issued within 60 days of the date a complete and accurate petition is received. Failure to act within 60 days shall result in the petition being deemed approved.

B. Any person aggrieved by a decision under this Section who has a direct interest in the decision shall have the right to appeal to the Court of Common Pleas of the County of Lehigh vested with the jurisdiction of local tax appeals by or pursuant to 42 Pa.C.S. §5571(b).

C. Decision by the Appeals Board shall be made according to principles of law and equity.

§105. Conduct of Appeals/Hearings.

1. A taxpayer may or may not choose to be represented by a taxpayer representative. The taxpayer representative may be a lawyer, certified public accountant, accountant or other tax advisor processing appropriate tax training to represent taxpayers in tax appeals. The taxpayer must submit a written authorization to use a taxpayer representative. However, a simple letter signed by a taxpayer authorizing representation will be accepted as authorization. Such authorization shall include the representative's name, address and telephone number.

2. Copies of notices or communications may be sent by the Tax Administrator or other representative of the political subdivision to the taxpayer's representative. However, the original notice or communications will always be sent directly to the taxpayer. Action taken by the taxpayer's authorized representative (for example, requesting an extension of time or submitting factual information) shall have the same force or effect as if taken directly by the taxpayer.

3. The Appeal Board's final decision shall be in writing and signed by the Representative of the Appeals Board. The final decision shall be mailed to the taxpayer, with a copy also mailed to the taxpayer's authorized representative (if any).

§106. Refunds.

1. A taxpayer who has paid an eligible tax may file a written request for refund or credit. A request for refund shall be made within 3 years of the due date, as extended, for filing the report or tax return, or 1 year after actual payment of the tax, whichever is later. If no report is required, the request shall be made within 3 years after the due date for payment of the tax or within 1 year after actual payment of the tax, whichever is later.

2. A tax return filed by the taxpayer showing an overpayment shall be deemed to be a written request for a cash refund unless otherwise indicated on the tax return.

3. A request for refund under this §106 shall not be considered a petition under §103 and shall not preclude a taxpayer from submitting a petition under §103.

4. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for refund shall be filed within 1 year of the date of payment.

§107. Disclosure Statement and Taxpayer Notice.

1. Any taxpayer contacted by the Tax Administrator regarding the assessment, audit, determination, review or collection of an eligible tax will receive a taxpayer notice. The notice shall be incorporated into any other correspondence sent to a taxpayer by the Tax Administrator regarding the assessment, audit, determination, review or collection of tax. The notice shall be substantially in the following form:

A. You are entitled to receive a disclosure statement that sets forth a written explanation of your rights with regard to the assessment, audit, determination, review, appeal, enforcement, refund and collection of local taxes by calling the Heidelberg/Lynn EIT Bureau at 610-767-6220 during the hours of 9:30 a.m. and 3:30 p.m. on any weekday other than a holiday.

B. You may request a copy in person, by telephone or by mailing a request to the following address: 6272 Route 309, New Tripoli, PA 18066.

2. The disclosure statement will be made available to taxpayers upon request at no charge to the taxpayer, including mailing costs. In general, the Tax Administrator

will make reasonable efforts to supply all taxpayers with a copy of the disclosure statement.

§108. Interest on Overpayment.

1. *General Rule.* All overpayments of an eligible tax made to the Township of Heidelberg shall bear simple interest from the date of overpayment of such eligible tax until the date of resolution.

2. *Interest Rate.* Interest on overpayments shall be paid at the same rate as the Commonwealth of Pennsylvania is required to pay pursuant to §806.1 of the Act of April 9, 1929, P.L. 343, No. 176, known as the Fiscal Code, 72 P.S. §1 *et seq.* As of December, this interest rate is currently 9 percent annually (.00247 percent daily).

3. *Exceptions to Payments of Interest.*

A. No interest shall be paid if an overpayment is refunded or applied against any other eligible tax, interest or penalty due to the Township of Heidelberg within 75 days after the late date prescribed for filing the report or tax return of the tax liability or within 75 days after the date the return or report of the liability due is filed, whichever is later.

B. Interest is not required to be paid on taxpayer overpayments of interest or a penalty(ies).

4. *Acceptance of Refund Check.* The taxpayer's acceptance of a refund check from the Tax Administrator or political subdivision shall not prejudice any right of the taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check by the Township of Heidelberg shall be deemed to be acceptance of the check by the taxpayer for purposes of this subsection.

5. *Definitions.* As used in this Section, the following words and phrases shall have the meanings given to them in this subsection:

Date of overpayment—the later of the date paid or the date the 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 a lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid 60 days following the date of initiation of the review or procedure.

(5) Any amount shown not to be due on an amended income or earned income and net profits tax return shall be deemed to have been overpaid 60 days following the date of 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 refund check by not more than 30 days.

(2) For a credit for an overpayment:

(a) The date of the Tax Administrator's notice to the taxpayer of the determination of the credit.

(b) The due date for payment of the eligible 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.

§109. Abatement of Certain Interest and Penalty.

1. *Errors and Delays.* The purpose of this provision is to provide, in the discretion of the Tax Administrator, a mechanism to abate (i.e., reduce) interest and/or penalties where an underpayment is the result of an error or delay in performance by a representative of the Tax Administrator. Accordingly, in the case of any underpayment, the Tax Administrator, in its discretion, may offer to abate all or any part of the interest relating to an eligible tax for any period for any one or all of the following reasons:

A. Any underpayment of an eligible tax finally determined to be due, which is attributable in whole or in part to any error or delay by the Tax Administrator in the performance of a ministerial act. For 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 Tax Administrator has contacted the taxpayer in writing with respect to the underpayment of the tax finally determined to be due or payable.

B. Any payment of an eligible tax to the extent that any error or delay in the payment is attributable to an officer, employee or agent of the Tax Administrator being erroneous or dilatory in performance of a ministerial act.

The Tax Administrator shall determine what constitutes timely performance of ministerial acts performed under this subsection.

2. *Abatement of Any Penalty or Excess Interest Due to Erroneous Written Advice by the Tax Administrator.* The Tax Administrator 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 Tax Administrator acting in the officer's, employee's or agent's 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.

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 to the Tax Administrator.

Notwithstanding the foregoing, it shall be in the sole discretion of the Tax Administrator whether or not to provide written tax advice to a taxpayer. Taxpayers shall not have any right to compel the Tax Administrator to provide written tax advice.

§110. Application of Payments.

Unless otherwise specified by the taxpayer, all voluntary payments of an eligible tax shall be prioritized by the Tax Administrator in the following order:

- A. Tax.
- B.. Interest.
- C. Penalty.
- D. Any other fees or charges.

§111. Installment Agreements.

The Tax Administrator has the discretion to enter into written agreements with any taxpayer under which the taxpayer is allowed to satisfy liability for tax in installment payments the Tax Administrator determines that the installment agreement will facilitate collection.

A. Extent to which installment agreements remain in effect.

(1) Except as otherwise provided in this paragraph, any installment agreement entered into by the Tax Administrator under this Section shall remain in effect for the term of the agreement.

(2) The Tax Administrator may terminate any prior installment agreement entered into under this Section if:

(a) Information which the taxpayer provided to the Tax Administrator prior to the date of the installment agreement was inaccurate, false, erroneous or incomplete in any manner, determined in the reasonable discretion of the Tax Administrator.

(b) The Tax Administrator reasonably believes and has determined that collection of the eligible tax under the installment agreement is in jeopardy.

(3) If the Tax Administrator finds that the financial condition of the taxpayer has significantly changed, the Tax Administrator may unilaterally alter, modify or terminate the installment agreement, but only if the following conditions are satisfied:

(a) The Tax Administrator provides a notice of its findings to the taxpayer no later than 30 days prior to the date of change of the installment agreement.

(b) The notice given by the Tax Administrator to the taxpayer provides the reasons why the Tax Administrator believes that a significant change, justifying a change to the installment agreement, has occurred.

(4) The Tax Administrator may unilaterally and without notification alter, modify or terminate an installment agreement earned into by the Tax Administrator under this Section if the taxpayer fails to do any of the following:

(a) Pay any installment at the time it is due under the installment agreement.

(b) Pay any other liability relating to an eligible tax at the time the liability is due.

(c) Provide a financial condition update as requested by the Tax Administrator.

(5) No administrative appeal is permitted in the event of an alteration, modification or termination of an installment agreement. However, an appeal

may be made to the Court of Common Pleas of this County.

B. *Prepayment Permitted.* Nothing in this Section shall prevent a taxpayer from prepaying in whole or in part any eligible tax under any installment agreement with the Tax Administrator.

§112. Confidentiality of Tax Information.

1. Any information obtained by the Tax Administrator or Appeals Board, or any of their respective officers, agents, legal counsel, financial accountant, or employees as a result of any audit, assessment, return, report, investigation, hearing, appeal or verification of a taxpayer shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for such persons to:

A. Divulge or make known in any manner any confidential information obtained through any audit, return, assessment, investigation, report, appeal, hearing or verification of a taxpayer to any person other than the taxpayer or the taxpayer's authorized representative.

B. Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person other than the taxpayer or the taxpayer's authorized representative.

C. Print, publish or make known in any manner any confidential tax information of a taxpayer.

2. An offense under this Section is a misdemeanor of the third degree and, upon conviction thereof, a fine of not more than the \$2,500 and costs, or a term of imprisonment for not more than 1 year, or both, may be imposed on the offender. If the offender is an officer or employee of the Tax Administrator or the Appeals Board, the officer or employee shall be dismissed from office or discharged from employment.

§113. Collections.

If after the decision of an appeal, or if no appeal is requested by a taxpayer, the Tax Administrator may engage in efforts to collect any eligible tax determined to be legally due. Such effort may include, but shall not be limited to, obtaining additional information, auditing taxpayer records, compromising the amount of tax, interest, or penalty owed, obtaining liens on the taxpayer's property, or obtaining wage attachments, levies and seizures of the taxpayer's property. As provided in §111 of these regulations, the Tax Administrator may enter into a written installment agreement with the taxpayer if the Tax Administrator determines that an installment agreement will facilitate collection. The Tax Administrator also reserves the right to seek criminal prosecution of a taxpayer in appropriate circumstances.

Schedule 24-5-2

Disclosure Statement under this Local Taxpayers Bill of Rights

It is the obligation of all taxpayers to file all local tax returns voluntarily and pay all local taxes to which they are subject. However, when the duly appointed or elected tax collector or tax collection agency for the Township and/or school district in which the taxpayer resides determines that a required return has not been filed, or a tax liability has not been paid, the Local Taxpayers Bill of Rights grants certain legal rights to taxpayers, and imposes obligations on taxing authorities to ensure that equity and fairness guide local governments in the collection of taxes. In addition, the Local Taxpayers Bill of Rights provides the local government entity with certain legal methods to enforce taxpayer obligations. This disclosure statement sets forth your rights as a taxpayer in connection with any audit, examination, appeal or refund claim of taxes for Heidelberg Township, and any enforcement or collection actions taken by the Heidelberg/Lynn EIT Bureau on behalf of Heidelberg Township.

Applicability/Eligible Taxes.

This disclosure statement applies to all eligible taxes levied by Heidelberg Township. For this purpose, eligible taxes do not include real property taxes. The specific eligible tax(es) levied by Heidelberg Township are: (1) property tax; (2) income tax; and (3) per capita tax. Unless expressly provided in the Local Taxpayers Bill of Rights, the failure of any person acting on behalf of the Tax Administrator to comply with any provisions of this disclosure statement, related regulations or the Local Taxpayers Bill of Rights will not execute the taxpayer from paying the taxes owed.

Audit/or Examinations.

If we contact you about your tax return or payment of any eligible taxes, we will send you a letter with either a request for more information or a reason why we believe a change to your return or taxes may be needed. If we request information, you will have 30 calendar days from the date of the mailing to respond. Reasonable extensions of such time will be granted upon application for good cause. We will notify you of the procedures to obtain an extension with our initial request for tax information. Our initial inquiry may include taxes required to be paid or tax returns required to be filed no more than 3 years prior to the mailing date of our notice. If you give us the requested information or provide an explanation, we may or may not agree with you. If we do not agree with you, we will explain in writing our reasons for asserting that you owe us tax (which we call "an underpayment"). Our explanation will include: (1) the tax period or periods for which the underpayment is asserted; (2) the amount of the underpayment detailed by tax period; (3) the legal basis upon which we have relied to determine that an underpayment exists; and (4) an itemization of the revisions made by us to your return or report that results in our decision that an underpayment exists. If you agree with our changes, you should pay the additional tax.

Requests for Prior Year Returns.

An initial request by the Tax Administrator into prior year returns may cover tax

returns required to be filed as far back as 3 years prior to the mailing date of the notice. If the Tax Administrator determines that the taxpayer 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, the Tax Administrator may request additional information. The Tax Administrator may also require a taxpayer to provide copies of Federal and Pennsylvania tax returns when the Tax Administrator can show that the taxpayer's Federal tax return(s) is(are) reasonably necessary for the enforcement or collection of tax, and the information is not available from other sources or the Pennsylvania Department of Revenue.

Appeals of Decisions.

If we notify you that you owe more tax (what we call an "assessment") and you do not agree with our decision, you may appeal or seek review by filing a petition for reassessment within 90 days of the date of the mailing of the assessment notice. The petition must either be in our hands or postmarked by the U.S. Postal Service within this 90-day period. Receipts from other carriers (such as Federal Express) are not accepted as proof of delivery.

Your petition must explain the legal basis for your position and include all supporting documents. For your convenience, a form for submission of a petition is available at 6272 Route 309, New Tripoli, PA 18066. Your petition must be mailed or delivered to the attention of EIT Officer at the following address: 6272 Route 309, New Tripoli, PA 18066. A decision by the Appeals Board, which has been appointed by Heidelberg Township will be made within 60 days of the date your complete and accurate petition is received. If you do not agree with the decision of the Appeals Board, you may appeal to the appropriate Court of Common Pleas of Lehigh County. You must file your appeal within 30 days after notice of the decision of the Appeals Board.

Refunds.

You may file a claim for refund ("refund claim") if you think you paid too much tax (what we call an "overpayment"). You must file the refund claim within 3 years of the due date for filing the return as extended or 1 year after actual payment of the tax, whichever is later. If no report or local tax return is required for the tax, the refund claim must be made within 3 years after the due date for payment of the tax or within 1 year after actual payment of the tax, whichever is later. If your refund claim relates to amounts paid as a result of a notice asserting an underpayment of tax, your request for refund claim must be filed within 1 year of the date of payment. Refund claims must be made on forms prescribe by us and must include supporting documentation. You can obtain forms for refund claims by contacting us at 6272 Route 309, New Tripoli, PA 18066. Your refund claim must be filed with us at 6272 Route 309, New Tripoli, PA 18066. If you file a tax return showing an overpayment of tax, we will treat that as a request for a cash refund unless you indicate otherwise. If your refund claim is denied, you may file a petition contesting the denial of the refund. Any petition must be filed within the same time limits that apply for a refund claim. Alternatively, you may file a petition for a refund without first filing a refund claim. A hearing date will be set after your petition is received and a decision by the Appeals Board will be made within 60 days of the date your complete and accurate petition is received. The appeals petition form must be used to request a review of a refund claim denial. Your petition must be mailed or delivered to the attention of EIT Officer at 6272 Route 309, New Tripoli, PA

18066.

Enforcement Procedures.

Once it has been determined that you owe a tax, we will take all action we are legally permitted to take to enforce our claim. Such action may include obtaining additional information from you, auditing your records, entering into a settlement with you of the disputed amount of the tax, or obtaining liens on your property, wage attachments, levies, and seizures and sales of your property in appropriate circumstances. We may enter into a written agreement with you for payment of the tax in installments if we believe that such an agreement will facilitate collection. We may also impose interest and applicable penalties on the tax you owe, and may seek criminal prosecution of you in appropriate circumstances.

Tax Information Confidentiality.

Information gained by the Tax Administrator or Appeals Board as a result of any audit, return, report, investigation, hearing, appeal or verification shall be confidential. However, confidentiality will not preclude disclosure for official purposes, whether in connection with legal proceedings or otherwise, and it will not preclude disclosures to the extent required by applicable law.

Taxpayer Complaints.

If you have a complaint about any action relating to the political subdivision's taxes, the EIT Officer may be contacted in writing at 6272 Route 309, New Tripoli, PA 18066. This individual will attempt to facilitate resolution of your complaint by working with the appropriate personnel of the Tax Administrator and/or Appeal Board. For more information, please contact the EIT Officer, 6272 Route 309, New Tripoli, PA 18066 - (610) 767-6220.

Schedule 24-5-3

Petition for Appeal and Refund

INSTRUCTIONS: This form is to be used by taxpayers appealing an assessment of tax by the Tax Administrator or an appeal of a denial of a claim for refund by the Tax Administrator. Please complete Petition using blue or black ink, or type Petition. Attach a copy of the Assessment Notice being appealed, or if seeking a refund, proof that such tax was paid, Mail this Petition to the Heidelberg/Lynn EIT Office, 6272 Route 309, Suite A, New Tripoli, PA 18066, Petitions appealing an Assessment Notice must be received by the Appeals Board within 90 days of the date of the Assessment Notice. Petitions for refunds must be received by the Appeals Board within the later of; (a) three years of the due date for filing the return or (b) one year after actual payment of the tax. Petitions filed via U.S. Postal Service are considered filed as of the postmark date, Petitions filed via any other method are considered filed on the date received. Answer all questions below as completely as possible. If an item is not applicable, enter "N/A."

SECTION A: TAXPAYER INFORMATION

Last Name	First Name	Middle Initial
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Street Address: _____

City	State	County	Zip Code
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Phone Number () - _____ Fax Number: () - _____

Previous Street Address (if applicable): _____

City	State	County	Zip Code
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Social Security No.: _____

Taxpayer Identification No.: _____

SECTION E: RELIEF REQUESTED & ARGUMENTS

Explain the relief requested: _____

SECTION F: SIGNATURE

All petitions must be signed by petitioner or an authorized representative. If signed by an authorized representative, written authorization for the representative to sign on petitioner’s behalf must accompany the petition.

Under penalties prescribed by law, I hereby certify that this petition has been examined by me and that to the best of my knowledge, information and belief, the facts contained in the petition are true and correct.

Signature: _____
(Taxpayer or Authorized Representative)

Print Name: _____
(Taxpayer or Authorized Representative)

Title: _____

Date: _____

Schedule 24-5-4

Administrative Appeal Procedures Applicable to Petitions for Appeal and Refund

I. General.

If the taxpayer does not agree with the local Tax Administrator's (hereinafter "Administrator") assessment or determination of refund claim, the taxpayer may file an appeal by petition to Board of Appeals requesting a review of the Administrator's assessment or determination of refund claim.

II. Obtaining a Hearing.

To obtain a hearing, a taxpayer must complete a petition form and timely file it with the Board of Appeals and mail it to the Administrator's address indicated in §V.4 below.

III. Form and Content of the Petition.

The petition must include all of the following information.

- A. Petitioner's name, address, phone number and contact person (if any).
- B. Petitioner's Social Security number, account number or taxpayer identification number.
- C. Type of tax.
- D. Tax year and/or quarter.
- E. School district and/or borough, township, city town or county.
- F. Name, address and phone number of authorized representative (if any).
- G. Whether petitioner would like to schedule a hearing in person or on the record.
- H. Relief the petitioner is requesting.
- I. Petitioner's argument(s) in support of the relief requested.
- J. Signature of petitioner.

IV. Forwarding Appeal.

1. Upon receipt of the taxpayer's petition, the Administrator shall forward the petition immediately to the Board of Appeals.

2. The Board of Appeals shall issue a written decision on the taxpayer's petition within 60 days of the date on which a complete and accurate petition is received from the taxpayer.

3. In evaluating and making a decision as to any petition, the Board of Appeals shall apply the principles of law and equity.

V. Deadlines for Filing.

1. *Refund Petitions.* If a taxpayer determines that he or she has paid a tax to which he or she is not subject, a petition for refund of the overpaid local tax must be filed with the Administrator.

A. Refund petitions shall be filed within 3 years after the due date for filing the report or return, as extended or 1 year after the actual payment of the tax, whichever is later.

B. If not report or return is required, the refund petition shall be filed within 3 years after the due date for payment of the tax to be refunded or within 1 year after actual payment, whichever is less.

2. *Petitions for Reassessment.*

A. Any taxpayer who disagrees with an assessment or determination of a local tax may petition the Board of Appeals for a re-evaluation of the taxpayer's assessment.

B. Petitions for reassessment of a tax shall be filed with the Administrator within 90 days of the date of the assessment notice.

3. *Timely Filing.* A petition for refund or petition for reassessment is timely filed if the letter transmitting the petition is postmarked by the United States Postal Service on or before the final day on which the petition must be filed.

4. *Mailing Address.* Petitions shall be mailed to the following address:

Heidelberg/Lynn EIT Office
Attn. Board of Appeals
6272 Route 309, Suite A
New Tripoli, Pa 18066