

Chapter 24

Taxation; Special

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

Association - a partnership, limited partnership, or any other unincorporated group of two or more persons.

Borough - the Borough of Swissvale.

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

Corporation - a corporation or joint stock association under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency.

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

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

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

Income Tax Officer - person, public employee or private agency designated by the Borough to collect and administer the tax on earned income and net profits.

Employer - a person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation.

Net profits - the net income from the operation of a business, profession, or other

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

Nonresident - a person, partnership, association or other entity domiciled outside the Borough.

Person or individual - a natural person.

Preceding year - the calendar year before the current year.

Resident - a person, partnership, association or other entity domiciled in the taxing district.

Succeeding year - the calendar year following the current year.

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

(Ord. 98-4, 6/10/1998, §1)

§24-102. Levy of Tax.

1. A tax for general revenue purposes of 1% per annum is hereby imposed on:

A. Earned income received by residents beginning January 1, 1998, and ending December 31, 1998, by residents of the Borough of Swissvale.

B. The net profits earned by residents beginning January 1, 1998, and ending December 31, 1998, of businesses, professions, or other activities conducted by residents of the Borough of Swissvale, regardless of where the same were earned.

2. 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, 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 basis, without annual reenactment, unless the rate of the tax is subsequently changed. Changes in rate shall become effective on the date specified in this Section.

(Ord. 98-4, 6/10/1998, §2)

§24-103. Declaration and Payment of Tax.

1. *Net Profits.*

A. Every taxpayer making net profits on or before April 15, of the succeeding year for the period beginning January 1, and ending December 31, of the current year, or (ii) on or before April 15, of the current year, make and file with the Officer on a form prescribed or approved by the Officer, a declaration of his estimated net profits during the period beginning January 1, and ending December 31, of the current year, and pay to the Officer in four equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration, and the other installments on or before June 15, of the current year, September 15, of the current year and January 15, of the succeeding year, respectively.

B. Any taxpayer who first anticipates any net profit after April 15, of the

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

C. Every taxpayer shall, on or before April 15, of the succeeding year, make and file with the Officer on a form prescribed or approved by the Officer a final return showing the amount of net profits earned during the period beginning January 1, of the current year, and ending December 31, of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the 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 his estimate tax, elect to make and file with the Officer on or before January 31, of the succeeding year, the final return as required.

D. The Officer may be authorized to require the making and filing of adjusted declarations of estimated net profits, and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.

E. Every taxpayer who discontinues business prior to December 31, of the current year, shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

2. *Earned Income.*

A. *Annual Earned Income Tax Return.* Every taxpayer shall, on or before April 15, of the succeeding year, make and file with the Officer on a form prescribed or approved by the Officer a final return showing the amount of earned income received during the period beginning January 1, of the current year, and ending December 31, of the current year, the total amount of tax due thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

B. *Earned Income Not Subject to Withholding.* Every taxpayer who is employed for a salary, wage, commission, or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the Officer on a form prescribed or approved by the Officer, a quarterly return on or before April 30, of the current year, July 31, of the current year, October 31, of the current year, and January 31 of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the 3-month periods ending March 31, of the current year, June 30, of the current year, and September 30, of the current year, and December 31, of the current year, respectively, and subject to the tax, together with such other information as the Officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the Officer the amount of tax

shown as due thereon.

(*Ord. 98-4, 6/10/1998, §3*)

§24-104. Collection at Source.

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

2. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Borough, who employs one or more persons, other than domestic servants for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof, the tax imposed by ordinance or resolution on the earned income due to his employee or employees, and shall, on or before April 30, of the current year, July 31, of the current year, October 31, of the current year, and January 31 of the succeeding year, file a return and pay to the Officer the amount of taxes deducted during the preceding 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. Such return unless otherwise agreed upon between the Officer and employer shall show the name and social security number of each such employee, the earned income of such employee during such preceding 3-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total earned income of all such employees during such preceding 3-month period, and the total tax deducted therefrom and paid with the return. Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the Officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the Officer on or before the last day of the month succeeding the month for which the tax was withheld.

3. On or before February 28, of the succeeding year, every employer shall file with the Officer:

A. An annual return showing the total amount of earned income paid, the total amount of tax deducted, and the total amount of tax paid to the Officer for the period beginning January 1, of the current year, and ending December 31, of the current year.

B. A return withholding statement for each employee employed during all or any part of the period beginning January 1, of the current year, and ending December 31 of the current year, setting forth the employee's name, address and Social Security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, the amount of tax paid to the Officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

4. Every employer who discontinues business prior to December 31, of the current year, shall, within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

5. Except as otherwise provided in §9 of Act No. 511, 53 P.S. § 6901 *et seq.*, every employer who willfully or negligently fails or omits to make the deductions required to withhold to the extent that such taxes have not been recovered from the employee.

6. The failure or omissions of any employees to make the deduction required by this Section shall not relieve any employee from the payment of the tax or from complying with the requirements of this Part relating to the filing of declarations and returns.

(*Ord. 98-4, 6/10/1998, §4*)

§24-105. Powers and Duties of Officer.

1. It shall be the duty of the Officer to collect and receive the taxes, fines and penalties imposed by this Part. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.

2. The Officer, before entering upon his official duties, shall give and acknowledge a bond to the Borough, unless it is waived by the Borough Council appointing him. In the event, the Borough Council shall, by resolution, designate any bond previously given by Officer as adequate, such bond shall be sufficient to satisfy the requirements of this subsection.

Each such 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 duly licensed by the Insurance Commissioner of this Commonwealth.

Each such bond shall be conditioned upon the faithful discharge by the Officer, his clerks, assistants and appointees of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required of him by virtue of his office, upon the just and faithful accounting or payment over, according to law, of all moneys and all balances thereof paid to, received or held by him by virtue of his office and upon the delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office.

Each such bond shall be taken in the name of the Borough of Swissvale, and shall be for the use of the Borough, and for the use of such other person or persons for whom money shall be collected or received, or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the principal on the bond.

The Borough, or any person may sue upon the said bond in its or his own name for its or his own use.

Each such bond shall contain the name or names of the surety company or companies bound thereon. The Borough shall fix the amount of the bond at an amount equal to the maximum amount of tax which may be in the possession of the Officer at any given time.

The Borough may, at any time, upon cause shown and due notice to the Officer, and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to the Borough for the purpose of making the bond sufficient in amount, without releasing the surety or sureties first approved from any accrued liability or previous action on such bond.

The Borough shall designate the custodian of the bond required to be given by the Officer.

3. The Officer charged with the administration and enforcement of the provisions of this Part is hereby empowered to prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of the ordinance or resolution, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in case of overpayment, for any period of time not to exceed 6 years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of the ordinance or resolution. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution by the Borough Council. A copy of such rules and regulations currently in force shall be available for public inspection.

4. The Officer shall refund, on petition of, and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.

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

6. Any information gained by the Officer, his agents, or by any other official or agent of the taxing district, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by the ordinance or resolution, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

7. The Officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

8. The Officer shall, at least quarterly, distribute earned income taxes to the Borough. The Borough shall not be required to request the Officer to distribute the funds collected but shall at least annually reconcile their receipts with the records of the Officer and return to or credit the Officer with any overpayment. If the Officer, within 1 year receiving a tax payment, cannot identify the taxing jurisdiction entitled to a tax payment, he shall make payment to the Borough. Within 120 days of the passage of this Part, any present accumulated funds that are unclaimed shall be distributed on the same basis.

(*Ord. 98-4, 6/10/1998, §5*)

§24-106. Compensation of Income Tax Officer.

The Income Tax Officer shall receive such compensation for his services and expenses as determined by the Borough Council from time to time. In the case of a single collector established by the Borough Council of the Borough of Swissvale and the

Board of Directors of the Woodland Hills School District, the taxing jurisdictions shall share in the compensation and expenses of a single Officer according to the proportionate share that the total annual collections for each jurisdiction bears to the total annual collection for all political subdivisions in a single collector district, except that with the agreement of two-thirds of all participating political subdivisions, a different manner of sharing may be substituted.

(*Ord. 98-4, 6/10/1998, §6*)

§24-107. Suit for Collection of Tax.

1. The Officer may sue in the name of the Borough of Swissvale for the recovery of taxes due and unpaid under this Part.

2. Any suit brought to recover the tax imposed by this Part shall be begun within 3 years after such tax is due, or within 3 years after the declaration or return has been filed, whichever date is later: Provided, however, That this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

A. Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of the ordinance or resolution, there shall be no limitation.

B. Where an examination of the declaration or return filed by any person, or of other evidence relating to such declaration or return in the possession of the Officer, reveals a fraudulent evasion of taxes, there shall be no limitation.

C. In the case of substantial understatement of tax liability of 25% or more and no fraud, suit shall be begun within 6 years.

D. Where any person has deducted taxes under the provisions of the ordinance or resolution, and has failed to pay the amounts so deducted to the Officer, or where any person has willfully failed or omitted to make the deductions required by this Section, there shall be no limitation.

E. This Section shall not be construed to limit the Borough from recovering delinquent taxes by any other means provided by law.

3. The Officer may sue for recovery of an erroneous refund provided such suit is begun 2 years after making such refund, except that the suit may be brought within 5 years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

(*Ord. 98-4, 6/10/1998, §7*)

§24-108. Interest and Penalties.

1. If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of $\frac{1}{2}$ of 1% of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

2. Notwithstanding the provisions of subsection .1, the Borough may, by ordinance or resolution, establish a one-time period during which interest or interest

and penalties that would otherwise be imposed for the non-reporting or under-reporting of earned income tax liabilities or for the nonpayment of earned income taxes previously imposed and due shall be waived in total or in part if the taxpayer voluntarily files delinquent returns and pays the taxes in full during the period so established. The Borough may adopt regulations to implement the provisions of the subsection.

3. The provisions of subsection .2 shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under the provisions of this act, or prevent the commencement or further prosecution of any proceedings by the proper authorities for violations of this act. No proceedings shall, however, be commenced on the basis of delinquent returns filed pursuant to subsection .2 if the returns are determined to be substantially true and correct and the taxes are paid in full within the prescribed time.

(*Ord. 98-4, 6/10/1998, §8*)

§24-109. Fines and Penalties for Violation.

1. Any person who fails, neglects, or refuses to make any declaration or return required by this Part, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the Officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by the ordinance or resolution, shall, upon conviction thereof, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and, in default of payment of said fine and costs to be imprisoned for a period not exceeding 30 days. [*Ord. 05-02*]

2. Any person who divulges any information which is confidential under the provisions of the ordinance or resolution, shall, upon conviction thereof, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and, in default of payment of said fines and costs to be imprisoned for a period not exceeding 30 days. [*Ord. 05-02*]

3. The penalties imposed under this Section shall be in addition to any other penalty imposed by any other section of this Part.

4. The failure of any person to receive or procure forma required for making the declaration or returns required by this Part shall not excuse him from making such declaration or return.

(*Ord. 98-4, 6/10/1998, §9; as amended by Ord. 05-02, 6/1/2005*)

Part 2**Local Services Tax****§24-201. Title.**

This Part shall be known and may be cited as the “Local Services Tax Ordinance.”
(*Ord. 07-02, 12/5/2007, §1*)

§24-202. Definitions.

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

Borough - the Borough of Swissvale.

Borough Council - the Borough Council of the Borough of Swissvale.

Collector - the person, persons, agency, association and/or corporate entity designated by the Borough Council of the Borough of Swissvale to collect the tax and to carry out and administer the provisions of this Part.

Compensation - salaries, wages, commissions, tips, bonuses, fees, gross receipts or other income derived from engaging in an occupation.

Earned income and net profits - shall have the same meaning as those terms are given in §13 of the Local Tax Enabling Act, Act 511 of 1965 (53 P.S. §6313).

Emergency services - emergency services, which shall include emergency medical services, police services and/or fire services.

Employer - any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency, or any other body engaged in business or situated within the Borough employing one or more employees engaged in any occupation, other than domestic servants.

Exemption certificate - substantially in the form of the uniform certificate prescribed by the Pennsylvania Department of Community and Economic Development affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of less than \$12,000 in the calendar year for which the exemption certificate is filed, which exemption certificate has attached to it a copy of all of the employee's last pay stub or W-2 form from employment within the Borough for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax.

Local services - emergency services; road construction and/or maintenance; reduction of property taxes; and property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S., Chapter 85, Subch. F.

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

Tax - the tax imposed by this Part.

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

(*Ord. 07-02, 12/5/2007, §1*)

§24-203. Levy.

For local services purposes, a tax is hereby levied upon the privilege of engaging in an occupation within the Borough. Each natural person who exercises such privilege for any length of time in any year shall be assessed and shall pay the tax in the amount equal to the pro rata share of the annual amount of \$52 in accordance with the provisions of this Part, subject to the exemptions set forth in §24-204 of this Chapter. (*Ord. 07-02, 12/5/2007, §1*)

§24-204. Exemptions.

The tax levied by §24-203 shall not be imposed upon the following persons:

A. Any person who 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 percent permanent disability.

B. 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 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.

C. Any natural person whose total earned income and net profits from all sources within the Borough during the taxable year is less than \$12,000.

(*Ord. 07-02, 12/5/2007, §1*)

§24-205. Collection Through Employers.

1. Every employer shall, within 15 days after the effective date of this Part or within 15 days of first becoming an employer thereafter, register with the collector the employer's name, address and such other information as the collector may require.

2. As to each taxpayer employed for any length of time during any payroll period of an employer during the calendar year, each employer shall deduct a pro rata share of the tax from compensation payable to the taxpayer with respect to such payroll period. The pro rata share of the tax assessed on a taxpayer 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 of the tax, an employer shall round down the amount of tax deducted for each payroll period to the nearest $\frac{1}{100}$ of a dollar. Each employer shall file a return on a form prescribed by the collector, and pay the collector the full amount of all such taxes deducted during a calendar quarter within 30 days after the end of the calendar quarter.

3. Any employer who discontinues business or ceases operation before December 31 of any year shall, within 15 days after discontinuing business or ceasing operation, file the return hereinabove required and pay the tax to the collector.

4. The failure of any employer to deduct the tax shall not relieve the employee

from the duty to file a return and pay the tax. Any employer who fails to deduct the tax as required by this Section, or who fails to pay such tax to the collector, shall be liable for such tax in full, as though the tax had originally been levied against such employer. No employer shall be liable for failure to deduct the tax if the failure to deduct the tax arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed.

5. The employer shall not deduct the tax but shall maintain adequate records concerning the employees in the cases described in subsections .5.A and .5.B.

A. In the case of concurrent employment, if the employee provides (1) a recent pay statement from a principal employer that includes (a) the name of the employer, (b) the length of the payroll period and (c) the amount of the tax deducted and (2) a statement from the employee that (a) the pay statement is from the employee's principal employer and (b) that the employee will notify other employers of a change in the principal place of employment within 2 weeks of its occurrence.

B. In the case of an employee claiming the exemption set forth at §24-204.3, if (1) the employee has provided an exemption certificate to the employer, (2) the collector has not otherwise instructed the employer, (3) the employer has not received notification from the person who claimed the exemption or from the collector that the person has received earned income and net profits from all sources within the Borough 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, and (4) the employer has not paid to the person earned income within the Borough in an amount equal to or in excess of \$12,000 in that calendar year.

C. The employer shall file with the collector a copy of each exemption certificate, including attachments, received by the employer no later than the end of the first payroll period as to which the employee claims the exemption set forth at §24-204.3.

D. If a person has claimed the exemption under §24-204.3 for a given calendar year from the tax but either (1) the employer has received notification from the person who claimed the exemption or from the collector that the person has received earned income and net profits from all sources within the Borough 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 (2) the employer has paid to the person earned income within the Borough in an amount equal to or in excess of \$12,000 in that calendar year, then the employer shall withhold the tax for the remainder of that calendar year and the employer shall withhold from the person, for the first payroll period after receipt of the notification described in subparagraph (1) above or for the first payroll period after payments described in subparagraph (2) above have been made, a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person, 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 paragraph is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due and the collector may pursue collection under this

Part.

E. Each employer shall ensure that exemption certificate forms are readily available to employees at all times and shall furnish each new employee with an exemption certificate form at the time of hiring.

F. A person seeking exemption from the tax under §24-204.3 must annually file an exemption certificate with the collector.

(Ord. 07-02, 12/5/2007, §1)

§24-206. Direct Payment by Taxpayers.

Every taxpayer who is self-employed, or whose tax for any other reason is not collected under §24-205 of this Part, shall file a return on a form prescribed by the collector and shall pay a pro rata share of the tax directly to the collector within 30 days after the end of each calendar quarter. The pro rata share of the tax assessed on a taxpayer for a calendar quarter shall be determined by dividing the rate of the tax levied for the calendar year by four.

(Ord. 07-02, 12/5/2007, §1)

§24-207. Nonresident Taxpayers.

Both resident and nonresident taxpayers shall, by virtue of engaging in an occupation within the Borough, be subject to the tax and the provisions of this Part.

(Ord. 07-02, 12/5/2007, §1)

§24-208. Administration and Enforcement.

The collector, on behalf of the Borough, shall collect and receive the taxes, interest, fines and penalties imposed by this Part, and shall maintain records showing interest, fines and penalties imposed by this Part, and shall maintain records showing the amounts received and the dates such amounts were received. The collector shall prescribe and issue all forms necessary for the administration of the tax and may adopt and enforce regulations relating to any matter pertaining to the administration of this Part including, but not limited to, requirements for collection through employers, requirements for evidence and records, and provisions for the examination and correction of returns. The collector and agents designated by him may examine the records of any employer or supposed employer or of any taxpayer or supposed taxpayer in order to ascertain the tax due or verify the accuracy of any return. Every employer or supposed employer and every taxpayer or supposed taxpayer shall give the collector and any agent designated by him all means, facilities and opportunity for the examinations hereby authorized.

(Ord. 07-02, 12/5/2007, §1)

§24-209. Collections.

The collector shall collect, by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Part and unpaid. If for any reason any tax is not paid when due, interest at the rate of 6 percent per year on the amount of unpaid tax and an additional penalty of ½ of 1 percent of the amount of unpaid tax, for each month or fraction of month during which the tax remains unpaid, shall be added and collected.

Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection as well as for interest and penalties. The collector may accept payment under protest of the tax claimed by the Borough in any case where any person disputes the Borough's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the collector, the collector shall refund the amount of the overpayment to the person who paid under protest.

(Ord. 07-02, 12/5/2007, §1)

§ 24-210. Situs of Tax for Individuals Engaged in More than One Occupation or Employed in More than One Political Subdivision.

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 tax shall be in the following order: (A) first, the political subdivision in which a person maintains his or her principal office or is principally employed; (B) second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision; (C) third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

(Ord. 07-02, 12/5/2007, §1)

§24-211. Violations and Penalties.

1. Any person who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not more than \$600 for each violation, plus costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.

2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Part found to have been violated. All fines and penalties collected for violation of this Part shall be paid to the Borough Treasurer.

3. The Borough may also commence appropriate actions in equity, at law or other to prevent, restrain, correct, enjoin or abate violations of this Part.

4. The initial determination of a violation of this Part and the service of notice of violation are hereby delegated to the Borough Manager, the collector and their designees and to any other officer or agent that the Borough Manager or the Borough Council shall deem appropriate.

(Ord. 07-02, 12/5/2007, §1)

§24-212. Refunds.

Any person who has overpaid the tax may obtain a refund by making a written application for a refund to the collector no later than 1 year after payment of the tax or

3 years after the due date for payment of the tax, whichever is later, and satisfactorily proves to the collector that he is entitled to the refund. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax to the collector for the last quarter of the calendar year, whichever is later, shall not be subject to interest imposed under 53 Pa.C.S. § 8426. A refund shall be provided only for an amount overpaid in a calendar year that exceeds \$1.

(Ord. 07-02, 12/5/2007, §1)

§24-213. Receipt.

The collector shall provide a taxpayer a receipt of payment of the tax upon request by the taxpayer.

(Ord. 07-02, 12/5/2007, §1)

§24-214. Applicability.

The tax shall not apply to any subject of tax or person not within the taxing power of the Borough under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

(Ord. 07-02, 12/5/2007, §1)

§24-215. Duration.

This Part shall continue in force from year to year without annual reenactment.

(Ord. 07-02, 12/5/2007, §1)

§24-216. Use of Funds Restricted.

The Borough's use of the funds derived from the tax shall be limited to local services. No less than 25 percent of the funds shall be used for emergency services.

(Ord. 07-02, 12/5/2007, §1)

Part 3**Realty Transfer Tax****§24-301. Short Title.**

This Part shall be known as the "Realty Transfer Tax Ordinance of Swissvale Borough."

(*Ord. 87-1, 1/14/1987, §1*)

§24-302. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within Swissvale Borough, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place as authorized by Article XI-D, "Local Real Estate Transfer Tax," 72 P.S. §8101-D *et seq.*

(*Ord. 87-1, 1/14/1987, §2*)

§24-303. Definitions.

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

Corporation - a corporation, joint-stock association, business trust, or banking institution which is organized under the laws of this Commonwealth, the United States, or any other state, territory, foreign country or dependency.

Document - any deed, instrument or writing which conveys, transfers, demises, vests, confirms, or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest, or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under this Part.

Family farm corporation - a corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business of agriculture shall not be deemed to include:

- A. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition, or racing.
- B. The raising, breeding, or training of game animals or game birds, fish, cats, dogs, or pets or animals intended for use in sporting or recreational activities.
- C. Fur farming.
- D. Stockyard and slaughterhouse operations.

E. Manufacturing or processing operations of any kind.

Members of the same family - any individual, such individual's brothers and sisters of such individual's parents and grandparents, the ancestors and lineal decedents of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half-blood or legal adoption shall be treated as if they were related by the whole-blood.

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

Real estate -

A. All lands, tenements, or hereditaments within Swissvale Borough including, without limitation buildings, structures, fixtures, mines, minerals, oil, gas, quarried, spaced with or without upper or lower boundaries, trees, and other improvements, immovable, or interests which by custom, usage or law pass with a conveyance or land, but excluding permanently attached machinery and equipment in an industrial plant.

B. A condominium unit.

C. A tenant-stockholder's interest in a cooperative housing corporation, trust, or association under a proprietary lease or occupancy agreement.

Real estate company - a corporation or association which is primarily engaged in the business of holding, selling, or leasing real estate, 90% or more of the ownership interest in which is held by 35 or fewer persons and which:

A. Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate.

B. Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

Title to real estate -

A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years including, without limitation, an estate in fee simple, life estate, or perpetual leasehold.

B. Any interest in real estate enduring for a fixed period of years, but which, whether by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold including, without limitation a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee had equity.

Transaction - the making, executing, delivering, accepting, or presenting for recording of a document.

Value -

A. In the case of any bona fide sale of real estate at arm's length for actual

monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof, where such liens or other encumbrances and ground rents also encumber or are charged against other real estate. Provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale.

B. In the case of a gift, sale by execution upon a judgement or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposed for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations.

C. In the case of an easement or other interest in real estate the value of which is not determinable under paragraphs .A or .B above, the actual monetary worth of such interest.

D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Ord. 87-1, 1/14/1987, §3)

§24-304. Imposition of Tax; Interest.

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction, or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder wherein the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.

3. It is the intent of this Part that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §16901 *et seq.*, so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the Swissvale Borough Council under the authority of that Act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate and such one-half rate shall

become effective without any action on the part of the Borough Council; provided, however, that the Borough Council and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.

4. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due, shall be added and collected.

(*Ord. 87-1, 1/14/1987, §4*)

§24-305. Exempt Parties.

The United States, the Commonwealth, or any of their instrumentalities, agencies, or political subdivisions shall be exempt from payment of the tax imposed by this Part. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

(*Ord. 87-1, 1/14/1987, §5*)

§24-306. Excluded Transactions.

The tax imposed by §24-304 of this Part shall not be imposed upon:

A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property fine adjustments provided said reconveyance is made within 1 year from the date of condemnation.

B. A document which the Borough is prohibited from taxing under the Constitution or statutes of the United States.

C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.

D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.

E. A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by covenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within 1 year

shall be subject to tax as if the grantor were making such transfer.

G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.

H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.

I. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.

J. A transfer for no or nominal actual consideration from trustee to successor trustee.

K. A transfer:

(1) For no or nominal actual consideration between principal and agent or straw party.

(2) From or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property if the grantee in his individual capacity if the grantee claims an exemption from taxation under this paragraph.

L. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the Department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.

M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than 2 years.

N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt or the grantee or a transfer to a nonprofit industrial development agency or authority.

O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:

(1) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research, and development, transportation, energy conversion, energy

production, pollution control, warehousing, or agriculture.

(2) The agency or authority has the full ownership interest in the real estate transferred.

P. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.

Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.

R. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Cods of 1954, (68A Stat. 3, 26 USC 501(c)(3) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural, or open space opportunities.

S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the fame family which directly owns at least 75% of each class of the stock thereof.

T. A transfer between members of the fame family of an ownership interest in a real estate company or family farm corporation.

U. A transaction wherein the tax due is \$1 or less.

V. Leases for the production or extraction of coal, oil, natural gas, or minerals and assignments thereof.

In order to exercise any exclusions provided in this Section, the true, full, and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania realty transfer tax statement of value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this Part.

(Ord. 87-1, 1/14/987, §6)

§24-307. Document relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in §24-106 of this Part, documents which make, confirm, or evidence any transfer or demise of title to real estate between associations or corporations, and the members, partners, shareholders, or stockholders thereof are fully taxable. For the purposes of this article, corporations and associations are entities separate from their members, partners, stockholders, or shareholders.

(Ord. 87-1, 1/14/1987, §7)

§24-308. Acquired Company.

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of 3 years.

2. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.

3. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania realty transfer tax declaration of acquisition may be submitted for this purpose.

(Ord. 87-1, 1/14/1987, §8)

§24-309. Credits Against Tax.

1. Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.

2. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

3. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.

4. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.

5. If the tax due upon the transfer is greater than the credit given under this Section, the difference shall be paid. If the credit allowed is greater than the amount or tax due, no refund or carryover credit shall be allowed.

(Ord. 87-1, 1/14/1987, §9)

§24-310. Extension of Lease.

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

(Ord. 87-1, 1/14/1987, §10)

§24-311. Proceeds of Judicial Sale.

The tax herein imposed shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgement,

estate, or costs of the sale and of the writ upon which the sale is made except the state realty transfer tax, and the sheriff, or other officer, conducting said sale, shall pay the tax herein imposed out of the first monies paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

(*Ord. 87-1, 1/14/1987, §11*)

§24-312. Duties of Recorder of Deeds.

1. As provided in 16 P.S. §11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to Swissvale Borough based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from Swissvale Borough.

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

3. On or before the tenth day of each month, the recorder shall pay over to Swissvale Borough all local realty transfer taxes collected, less 2% for use of the County, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2% commission shall be paid to the county.

4. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the recorder shall rerecord the deed or record the additional realty transfer tax form only when both the State and local amounts and a rerecording or recording fee has been tendered.

(*Ord. 87-1, 1/14/1987, §13*)

§24-313. Statement of Value.

Every document lodged with or presented to the recorder of deeds for recording, shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part. A copy of the Pennsylvania realty transfer tax statement of value may be submitted for this purpose. The provisions of this Section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part.

(*Ord. 87-1, 1/14/1987, §13*)

§24-314. Civil Penalties.

1. If any part of any underpayment of tax imposed by this Part is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.

2. In the case of failure to record a declaration required under this Part on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% for each additional month of fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

(*Ord. 87-1, 1/14/1987, §14*)

§24-315. Lien.

The tax imposed by this Part shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of Swissvale Borough, which lands, tenements, hereditaments or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this Part, said lien to begin at the time when the tax under this Part is due and payable, and continue until discharge by payment, or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Allegheny County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §17101 *et seq.*, its supplements and amendments.

(*Ord. 87-1, 1/14/1987, §15*)

§24-316. Enforcement.

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

(*Ord. 87-1, 1/14/1987, §16*)

§24-317. Regulations.

The Borough Secretary of Swissvale Borough is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §18101-C *et seq.*, are incorporated into and made a part of this Part.

(*Ord. 87-1, 1/14/1987, §17*)

Part 4**Senior Citizen Tax Relief****§24-401. Definitions.**

Act 77 - the Act of December 22, 1993, P.L. 529, No. 77, codified as the Allegheny Regional Asset District Law, 16 P.S. §56101.B *et seq.*, as amended.

County - Allegheny County.

Disabled person - a permanently disabled person.

Eligible taxpayer - a longtime owner/occupant of a principal residence in Swissvale Borough who is:

A. A single person, aged 60 or older during a calendar year in which Borough real property taxes are due and assessed.

B. Married persons if either spouse is 60 or older during a calendar year in which Borough real property taxes are due and assessed.

C. A widow or widower aged 50 or older during a calendar year in which Borough real property taxes are due and assessed.

D. A disabled person aged 18 or older during a calendar year in which Borough real property taxes are due and assessed; and whose household income as defined by the Senior Citizen Rebate and Assistance Act does not exceed \$30,000.

Household income - all income received by an eligible taxpayer and his or her spouse while residing in his or her principal residence during a calendar year for which the rebate is claimed.

Income - all income from whatever source derived, including but not limited to, salaries, wages, bonuses, commissions, interest, dividends, IRA distributions, income from self-employment, alimony, support money, cash, public assistance and relief, the gross amount of any pensions or annuities, including railroad retirement benefits for calendar years prior to 1999, and 50% of railroad retirement benefits for calendar years 1999, and thereafter, all benefits received under the Federal Social Security Act (except Medicare benefits) for calendar years prior to 1999, and 50% of all benefits received under the Federal Social Security Act (except Medicare benefits) for calendar years 1999 and thereafter, all benefits received under State unemployment insurance laws and veterans disability payments, all interest received from the Federal or any State government or any instrumentality or political subdivision thereof, realized capital gains, net income from rentals, workers compensation and the gross amount of loss of time insurance benefits, life insurance benefits and proceeds, except the first \$5,000 of the total death benefit payments, and gifts of cash or property other than transfers by gift between members of a household in excess of a total value of \$300, but shall not include surplus food or other relief in kind supplied by a governmental agency or property tax or rent rebate or inflation dividend.

Longtime owner/occupant - a person who for at least 10 continuous years has owned and has occupied a dwelling place within the County as a principal residence and domicile, or any person who for at least 5 continuous years has owned and occupied

a dwelling within the county as a principal residence and domicile if that person received assistance in the acquisition of the property as part of a government or nonprofit housing program.

Person - a natural person.

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

Real estate property taxes - all taxes on a principal residence (exclusive of municipal assessments, delinquent charges and interest due and payable during a calendar year).

Senior Citizen Rebate and Assistance Act - the Act of March 11, 1971, P. L. 104, No. 3, as amended, codified at 72 P.S. §4751-1 *et seq.*

(*Ord. 01-03, 4/25/2001, §1*)

§24-402. Property Tax Rebate for Eligible Taxpayers.

All eligible taxpayers in the Borough of Swissvale who are longtime owner/occupants shall be entitled to receive a discount limited to a maximum of 10% of Swissvale Borough real estate property taxes for each year taxpayer(s) is/are eligible.

(*Ord. 01-03, 4/25/2001, §2*)

§24-403. Participation in Property Tax Rebate Program.

1. Any person paying property taxes in the Borough may apply to the Borough Secretary for certification as a participant in the property tax rebate program authorized under this Part. In order to be eligible to participate in the program, the person must meet the following conditions:

A. The person must be a single person aged 60 or older during a calendar year in which Borough real property taxes are due and assessed; or be married persons with either spouse being 60 years of age or older during a calendar year in which Borough real property taxes are due and assessed; or be a widow or widower aged 50 years of age or older during a calendar year in which Borough real property taxes are due and assessed; or be a disabled person aged 18 or older during a calendar year in which Borough real property taxes are due and assessed.

B. The person must be a longtime owner/occupant.

C. The property owned by the person must be the principal residence and domicile of the resident.

D. The person's total household income does not exceed \$30,000.

E. The taxpayer must apply to the Borough secretary for certification under this program by October 31, of the year for which tax relief is being sought. A new application must be filed for each year relief is requested. The Borough of Swissvale may but is not required to rely on the list of qualified individuals for tax relief created and maintained by Allegheny County.

(Ord. 01-03, 4/25/2001; §3)

§24-404. Rules and Regulations.

The Borough Secretary shall have authority to issue rules and regulations with respect to the administration of the property tax rebate program established under this Part. Such rules and regulations shall include, but not limited to, reasonable proof of household income, proof of residence, proof of age and any other reasonable requirements and conditions as may be necessary to operate the property tax rebate program. Proof of participation in Allegheny County's Senior Citizen Tax Relief Program shall be acceptable as proof that a person is eligible to participate in the Borough of Swissvale's Senior Citizen Tax Relief Program.

(Ord. 01-03, 4/25/2001, §4)

Part 5**LERTA****§24-501. Title.**

This Part shall be known and may be cited as the "Swissvale Borough Local Economic Revitalization Tax Assistance Ordinance."

(*Ord. 96-9, 9/11/1996, §1*)

§24-502. Definitions.

As used in this Part, the terms "deteriorated property," and "deteriorated area" shall have the meaning ascribed to such terms in the Local Economic Revitalization Tax Assistance Program (the "Act"), Act No. 76 of December 1, 1977, P.L. 237, as amended (72 P.S. §4722 *et seq.*) and more particularly, "deteriorated area" shall mean a certain area in Borough of Swissvale bounded by Palmer Street in Swissvale Borough and specifically that area designated as Lot and Block Nos. 178-M-170, 178-L-12 and 178-L-13.

(*Ord. 96-9, 9/11/1996, §2*)

§24-503. Exemption.

The assessed valuation of improvements constructed within the deteriorated area are hereby exempted from real property taxation in accordance with provisions and limitations set forth in §24-505 and §24-506, subject to the determination of the municipal governing body described in §24-502 hereof.

(*Ord. 96-9, 9/11/1996, §3*)

§24-504. Special Circumstances.

The tax exemption set forth in §24-503 is being granted solely in connection with a certain construction project planned to be undertaken on the deteriorated property. The Borough Council has determined such construction to be in the best interest of Swissvale Borough, in particular because it will result in allowing for the improvement of existing structures, the creation of additional jobs in the Borough, and the saving of existing jobs at this site.

(*Ord. 96-9, 9/11/1996, §4*)

§24-505. Limitations.

The tax exemption set forth in §24-503 shall be limited to tax exemption on the actual increase in assessed valuation attributable to the actual cost of the project, provided that such project is in compliance with all applicable laws, ordinances and regulations during the entire period of exemption.

(*Ord. 96-9, 9/11/1996, §5*)

§24-506. Schedule.

The following schedule of tax exemptions shall apply to all properties satisfying the

provisions and limitations hereinbefore or hereinafter set forth.

Schedule

Eligible Tax Year	% of Tax Exemption Eligible Assessment
1	100%
2	90%
3	80%
4	70%
5	60%
6	50%
7	40%
8	30%
9	20%
10	10%

(Ord. 96-9, 9/11/1996, §6)

§24-507. Procedure.

1. Any person desiring a tax exemption pursuant to this Part shall notify the Manager of Swissvale Borough Council, in writing, at the time such person secures the final building permit for any construction.

2. A copy of such exemption request shall be forwarded by Borough of Swissvale to the Allegheny County Assessment Office. Therefore, the Allegheny County Board of Assessment shall, after completion of the improvements, assess the improvements separately, calculate the amounts of the assessment eligible for tax exemption in accordance with the limits established in the ordinance and notify both the taxpayer and Borough of Swissvale of the reassessment of the amounts of the assessment eligible for an exemption. Appeals from the reassessment and the amounts eligible for the exemption may be taken by the taxpayer or by Borough of Swissvale as provided by general law.

3. The form herein prescribed shall require the following verified information:

- A. The date the final building or alteration permit was issued for construction, if applicable.
- B. The type and scope of construction.
- C. A summary of the plan of construction.
- D. The estimated cost of the construction.
- E. The name and address of the person or persons performing the work on the construction.

F. The location of the property being improved.

G. A statement as to whether or not the property has been condemned by any governmental body for nonconformance with any law or ordinance, and, if so, the name of the governmental body and the date of the condemnation.

H. Any additional information that the Allegheny County Assessment Office or Swissvale Borough may require for the application of the provision of this Part.

4. The application requirements set forth in subsections .1 through .3 shall be deemed to be mandatory. Failure of any person desiring a tax exemption to comply with the application requirements contained therein shall be conclusively presumed to be a waiver of any right to claim a real estate exemption as provided by this Part.

(Ord. 96-9, 9/11/1996, §8)

Part 6**Business Privilege Tax****§24-601. Title.**

This Part shall be known and cited as the “Business Privilege Tax Ordinance.”
(*Ord. 06-07, 12/29/1006, §1*)

§24-602. Definitions.

As used in this Part, the following words and phrases shall have the meanings prescribed to them in this Section, except where the context or language clearly indicates or requires a different meaning:

Borough - the Borough of Swissvale.

Borough Council - the Council of the Borough Swissvale.

Business, trades, occupations, professions and other commercial activity - any activity carried on or exercised for gain, or profit, or otherwise in the Borough, including, but not limited to: the sale of merchandise or other personalty and/or realty; the performance of a service; and the rental of personalty or realty. This definition shall not include the following: (1) employees or agencies of the government of the United States of America, Commonwealth of Pennsylvania, County of Allegheny, Borough or similar political subdivision or governmental entity; and (2) nonprofit corporations or associations organized solely and exclusively for religious, educational or charitable purposes and not conducting any type of regular or established business which compete commercially with any other person subject to the tax.

Calendar year (tax year) - the 12-month period beginning the first day of January.

Collector - the person, persons, public or private agency, association and/or corporate entity designated by the Borough Council to collect the tax and to carry out and administer the provisions of this Part.

Person - any individual, partnership, limited partnership, association or corporation.

Service - any act or instance of helping or benefiting another for a consideration.

Tax - the tax imposed by this Part.

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

(*Ord. 06-07, 12/29/1006, §1*)

§24-603. Tax Levy.

An annual business privilege tax in amount of \$100 is hereby levied upon any person who engages in any business, trade, occupation, profession or other commercial activity in the Borough and maintains a place of business in the Borough in calendar year 2007 and in each succeeding calendar year. Each person who exercises such

privilege for any length of time shall pay the tax in accordance with the provisions of this Part, provided the tax hereby levied shall not be levied upon any person who engages in the rental of two or fewer residential units within the Borough.

(Ord. 06-07, 12/29/1006, §1)

§24-604. Collection from Taxpayers.

1. Every taxpayer shall, within 15 days after the effective date of this Part or within 15 days after first becoming a taxpayer, register with the collector by providing the taxpayer's name, address, business address and such other information deemed necessary or required by the collector.

2. Each taxpayer who first becomes subject to the tax on or before March 31 of the calendar year shall file a return on a form prescribed by the collector and pay the collector the full amount of the tax on or before April 31 of that calendar year, and each such taxpayer who first becomes subject to the tax after March 31 shall file a return on a form prescribed by the collector and pay the collector the full amount of the tax on or before July 31 or October 31 of the calendar year, or January 31 of the following calendar year, whichever of such payment date first occurs, at least 15 days after the taxpayer becomes subject to the tax.

3. Any taxpayer who discontinues business or ceases operation before December 31 of the calendar year, within 15 days after discontinuing business or ceasing operation, shall file the return hereinabove required and pay the tax to the collector.

(Ord. 06-07, 12/29/1006, §1)

§24-605. Nonresidential Taxpayers.

Both resident and nonresident taxpayers shall, by virtue of engaging in any business, trade, occupation, profession or other commercial activity in the Borough and maintaining a place of business in the Borough, be subject to the tax and the provisions of this Part.

(Ord. 06-07, 12/29/1006, §1)

§24-606. Administration and Enforcement.

The collector, on behalf of the Borough, shall collect and receive the taxes, interests, fines and penalties imposed by this Part and shall maintain records showing the amounts received and the dates such amounts were received. The collector shall prescribe and issue all forms necessary for the administration of the tax and may adopt and enforce regulations relating to any matter pertaining to the administration of this Part including, but not limited to, requirements for collection from taxpayers, requirements for evidence and records and provisions for the examination and correction of returns. The collector and agents designated by the collector may examine the records of any taxpayer or supposed taxpayer in order to ascertain the tax due and verify the accuracy of any return. Every taxpayer or supposed taxpayer shall provide the collector and any agent designated by the collector with all means, facilities and opportunity for the examinations hereby authorized.

(Ord. 06-07, 12/29/1006, §1)

§24-607. Collection.

The collector shall collect, by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Part and unpaid. If for any reason any tax is not paid when due, interest at the rate of 6 percent per year on the amount of unpaid tax and an additional penalty of $\frac{1}{2}$ of 1 percent of the amount of unpaid tax, for each month or fraction of month during which the tax remains unpaid, shall be added and collected. Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection as well as for interest and penalties. The collector may accept payment under protest of the tax claimed by the Borough in any case where any person disputes the Borough's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the collector, then the collector shall refund the amount of the overpayment to the person who paid under protest.

(Ord. 06-07, 12/29/1006, §1)

§24-608. Violations and Penalties.

1. Any person who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not more than \$600 for each violation, plus costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.

2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Part found to have been violated. All fines and penalties collected for violation of this Part shall be paid to the Borough Treasurer.

3. The Borough may also commence appropriate actions in equity, at law or other to prevent, restrain, correct, enjoin or abate violations of this Part.

4. The initial determination of a violation of this Part and the service of notice of violation are hereby delegated to the Borough Manager, the collector and their designees and to any other officer or agent that the Borough Manager or the Borough Council shall deem appropriate.

(Ord. 06-07, 12/29/1006, §1)

§24-609. Applicability.

1. Any person who advertises a business address located in the Borough or who maintains a place of business within the Borough shall be deemed to be doing business within the Borough for the purposes of this Part.

2. The tax shall not apply to any subject of tax or person not within the taxing power of the Borough under the Constitution of the United States of America and the laws and Constitution of the Commonwealth of Pennsylvania.

(Ord. 06-07, 12/29/1006, §1)

