

## **Chapter 24**

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**Part 1****Earned Income Tax****§24-101. Title and Citation.**

This Part shall be known and may be cited as the “Ivyland Borough Earned Income and Net Profits Tax Ordinance.”

(*Ord. 1990-3, 11/7/1990, §1*)

**§24-102. Definitions.**

1. The following words or phrases when used in this Part shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

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

*Business*—an enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit, or ordinarily conducted for profit, whether by persons, partnerships, associations or any other entity.

*Corporation*—a corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other State, territory, foreign country or dependency.

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

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

*Earned income*—compensation as determined under §303 of the Act of March 4, 1971, P.L. 6, No. 2, known as the “Tax Reform Code of 1971,” and regulations in 61 Pa.Code, Part. I, Subpart. B, Article V (relating to personal income tax), not including, however, wages or compensation paid to individuals on active military service. Employee business expenses are allowable deductions as determined under Article III of the “Tax Reform Code of 1971.” The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income. [*Ord. 2011-3*]

*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.

*Income tax officer or officer*—person, public employee or private agency designated by the governing body to collect and administer the tax on earned income and net profits.

*Net profits*—the net income from the operation of a business, profession, or other activity, except corporations, determined under §303 of the Act of March 4, 1971, P.L. 6, No. 2, known as the “Tax Reform Code of 1971,” and regulations in 61 Pa.Code, Part I, Subpart B, Article V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

- (1) Any interest earnings generated from any monetary accounts or investment instruments of the farming business.
- (2) Any gain on the sale of farm machinery.
- (3) Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes.
- (4) Any gain on the sale of other capital assets of the farm.

[*Ord. 2011-3*]

*Nonresident*—a person, partnership, association or other entity domiciled outside the taxing district.

*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. 1990-3, 11/7/1990, §2; as amended by Ord. 2011-3, 11/9/2011*)

### **§24-103. Imposition of Tax.**

A tax at the rate of 1 percent on each dollar is hereby imposed on all earned income and net profits, as defined herein, earned by the residents of the Borough of Ivyland and on all earned income and net profits earned by nonresidents of the Borough of Ivyland for work done or services performed or rendered in the Borough of Ivyland. This tax shall become effective January 1, 1991, and shall remain in effect unless the rate of tax is subsequently changed.

(*Ord. 1990-3, 11/7/1990, §3*)

### **§24-104. Declaration and Payment of Tax.**

#### *1. Net Profits.*

A. Every taxpayer making net profits shall on or before April 15 of each year make and file with the officer on a form prescribed 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.

B. On or before April 15 of the succeeding year, every taxpayer shall make and file a final return on a form prescribed by the officer showing the amount of net profits earned, the total amount of tax due 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 the tax due, or shall make a demand for refund or credit in the case of an overpayment. An incomplete or improperly completed tax return shall be considered as not having been filed. Each final return shall be substantiated and supported by such United States Federal Income Tax Return forms as required by the officer, which shall at least include a copy of the Federal W-2 Form in the case of an earned income taxable and Schedule "C" of the Federal return as to a net profits taxable.

2. *Earned Income.* Every taxpayer shall, on or before April 15 of the succeeding year, make and file with 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 paid 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. An incomplete or improperly completed tax return shall be considered as not having been filed. Each final return shall be substantiated and supported by such United States Federal Income Tax Return forms as required by the officer, which shall at least include a copy of the Federal W-2 Form in the case of an earned income taxable and Schedule "C" of the Federal return as to net profits taxable.

3. *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, September 30 of the current year and December 31 of the current year, respectively, and subject of 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. 1990-3, 11/7/1990, §4)

#### **§24-105. Collection at Source.**

1. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Borough of Ivyland who employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof, the tax imposed by this Part 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 returns, 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 subdivision imposing the tax upon such employee and the political subdivision in which the employee resides, 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.

2. 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 showing withholding statement for each employee employed during all or 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, 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 and the amount of tax paid to the officer. Every employer shall furnish two copies to 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 herein above required and pay the tax due.

5. Except as otherwise provided, every employer who willfully or negligently fails to make the deductions required by this Section, shall be liable for payment of the taxes for which he was required to withhold to the extent that such taxes have not been recovered from the employee.

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

*(Ord. 1990-3, 11/7/1990, §5)*

#### **§24-106. 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 business paying the tax, and the date of such receipt.

2. Each officer, before entering upon his official duties, shall give and acknowledge a bond to the Borough of Ivyland in such amount and of such form and substance as is now or hereafter provided by law.

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 this Part, including provisions for the reexamination and correction of declarations and returns and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in case of overpayment for any period of time not to exceed 6 years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of this Part. No rule or regulation of any kind shall be enforceable unless it has been approved by the Borough Council of the Borough of Ivyland. 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 who the officer reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person, whom the officer reasonably believes to be an employer or taxpayer, is hereby directed and required to give to the officer, or to any agent designated by him, the means, facilities and opportunity for such examination and investigations, as are hereby authorized.

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, investigation, hearings or verifications required or authorized by this Part, shall be confidential, except for official purposes and except in accordance with 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.

*(Ord. 1990-3, 11/7/1990, §6)*

#### **§24-107. Suit for Collection of Tax.**

The officer may sue in the name of the Borough of Ivyland for recovery of taxes due and unpaid under this Part as is now or may hereafter be provided by law, provided however, that nothing contained in this Section shall be construed to limit the Borough of Ivyland from recovering delinquent taxes by any other means provided by law.

*(Ord. 1990-3, 11/7/1990, §7)*

#### **§24-108. Interest and Penalties.**

If for any reason the tax is not paid when due, interest at the rate of 6 percent per annum on the amount of said tax, and an additional penalty of ½ percent of the amount of unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the

person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

*(Ord. 1990-3, 11/7/1990, §8)*

**§24-109. Fines and Penalties.**

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 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 full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part, shall, upon conviction, be sentenced to pay a fine of not more than \$500 plus costs of prosecution and in default of the payment of such fine as may be imposed, to be imprisoned for a period not exceeding 30 days.

2. Any person who divulges any information which is confidential under the provisions of this Part, shall, upon conviction, be sentenced to pay a fine of not more than \$500 for each offence plus costs of prosecution and in default of the payment of such fine as may be imposed, to be imprisoned for a period not exceeding 30 days.

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 receive or procure forms required for making the declaration or returns required by this Part, shall not excuse him from making such declaration or return.

*(Ord. 1990-3, 11/7/1990, §9)*



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

This Part shall be known as the “Realty Transfer Tax Resolution of Ivyland Borough.”

(*Res. 1986-3, 12/3/1986, §1*)

**§24-202. Realty Transfer Tax.**

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within Ivyland 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.*

(*Res. 1986-3, 12/3/1986, §2*)

**§24-203. 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.

*Borough*—the Borough of Ivyland, Bucks County, Pennsylvania.

*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 or 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 §24-202 of this Part.

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

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

D. Stockyard and slaughterhouse operations.

E. Manufacturing or processing operations of any kind.

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

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

*Real estate*—shall include the following:

A. All lands, tenements or hereditaments within Ivyland Borough, including without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees, and other improvements, immovables or 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 percent or more of the ownership interest in which is held by 35 or fewer persons and which:

A. Derives 60 percent 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 percent 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, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, including without limitation a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 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 judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange or properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations.

C. In the case of an easement or other interest in real estate the value of which is not determinable under paragraph .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.

(*Res. 1986-3, 12/3/1986, §3*)

**§24-204. 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 percent to the value of the real estate represented by such document, which tax shall be payable at 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, whichever shall first occur.

2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Bucks County Recorder of Deeds whereon 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. §6901 *et seq.*, so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the Borough under the authority of that Act

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

4. The tax imposed under subsection .1 above 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, the Borough, pursuant to §1102-D of the Tax Reform Code of 1971, 72 P.S. §8102-D, authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties. [*Ord. 2011-3*]

5. Any tax imposed under subsection .1 that is not paid by the date 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 "Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims. [*Ord. 2011-3*]

(*Res. 1986-3, 12/3/1986, §4; as amended by Ord. 2011-3, 11/9/2011*)

#### **§24-205. 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.

(*Res. 1986-3, 12/3/1986, §6*)

#### **§24-206. Excluded Transactions.**

1. The tax imposed by §24-204 hereof shall not be imposed upon:

A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided 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 cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within 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; or (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 of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.

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

O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if: (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; and (2) the agency or authority has the full ownership interest in the real estate being 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 possess a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1954, 68A Stat. 3, 26 U.S.C. §501(c)(3), and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

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

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

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

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

2. In order to exercise any exclusion provided in this Section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania realty transfer tax statement of value may be submitted for this purpose. For leases of coal, oil, 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.

*(Res. 1986-3, 12/3/1986, §6)*

**§24-207. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.**

Except as otherwise provided in §24-206, documents which made, 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 Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

*(Res. 1986-3, 12/3/1986, §7)*

**§24-208. 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 percent 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 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.

*(Res. 1986-3, 12/3/1986, §8)*

**§24-209. 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 the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

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 or 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.

*(Res. 1986-3, 12/3/1986, §9)*

**§24-210. 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.

*(Res. 1986-3, 12/3/1986, §10)*

**§24-211. Proceeds of Judicial Sale.**

The tax herein imposed shall be fully paid, and have priority out of the proceeds or any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made except the State realty transfer tax, and the Sheriff, or other officer, conducting said sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

*(Res. 1986-3, 12/3/1986, §11)*

**§24-212. 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 Ivyland 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 Ivyland 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 of each month, the Recorder shall pay over to Ivyland Borough all local realty transfer taxes collected, less 2 percent 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 percent 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.

*(Res. 1986-3, 12/3/1986, §12)*

**§24-213. 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.

*(Res. 1986-3, 12/3/1986, §13)*

**§24-214. 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 percent 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 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 50 percent in the aggregate.

*(Res. 1986-3, 12/3/1986, §14)*

**§24-215. 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 the Borough, which lands, tenements, hereditaments, or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this 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 Bucks County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 *et seq.*, its supplements and amendments.

*(Res. 1986-3, 12/3/1986, §15)*

**§24-216. 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.

*(Res. 1986-3, 12/3/1986, §16)*

**§24-217. Regulations.**

The Tax Collector of Ivyland 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. §8101-C *et seq.* are incorporated into and made a part of this Part.

*(Res. 1986-3, 12/3/1986, §17)*

**Part 3****Mercantile Tax****§24-301. License.**

On or before the first day of August, 1971, every person desiring to continue to engage in, or hereafter to begin to engage in the business of wholesale or retail vendor of, or dealer in, goods, wares, merchandise, or conducting a restaurant or other place where food, drink or refreshments are sold within Ivyland Borough shall, on or before the first day of August, 1971, or prior to commencing business during the fiscal year 1971-1972, procure a mercantile license for his place of business, or if he has more than one place of business, for each of his places of business within the Borough from the Secretary of the Borough who shall issue the same upon the payment of a fee which shall be in an amount as established from time to time by resolution by Borough Council for each of his places of business in the Borough. Such license shall be conspicuously posted at the place of business or each of the places of business of every such person at all times.

(*Ord. 71-06, 6/3/1971, §1; as amended by Ord. 2011-3, 11/9/2011*)

**§24-302. Tax.**

Every person engaging in any of the following occupations or business within the Borough shall pay an annual mercantile license tax for the fiscal year commencing the first day of July, 1971, and ending on the day prior to the thirtieth day of June, 1972, at the rates below set:

A. Wholesale vendors or dealers in goods, wares and merchandise, at the rate of 1 mill on each dollar of the volume of the annual whole volume of business transacted during the license year.

B. Retail dealers in goods, wares and merchandise and proprietors of restaurants or other places where food, drink or refreshments are sold at the rate of 1½ mill on each dollar of the whole volume of business transacted during the license year.

C. Where the business or occupation involves any combination of the wholesale and retail function, then as to such there shall be paid with respect to the whole volume of wholesale business transacted during the license year, the rate specified in paragraph .A above; and with respect to retail business transacted during the license year, the rate as specified in paragraph .B, above.

D. The tax imposed by this Section shall not apply to the dollar volume of annual business covering the resale of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

(*Ord. 71-06, 6/3/1971, §2*)

**§24-303. Definitions.**

1. The following words and phrases when used in this Part shall have the meanings ascribed to them in this Section unless the context clearly indicates a

different meaning:

*Collector*—the Secretary of the Borough Council of Ivyland Borough or any other person who may from time to time by resolution of said Council be named as collector of the tax herein levied.

*Dealer in, or vendor of, goods, wares and merchandise*—shall not include any mechanic who keeps a store or warehouse at his place of manufactory or workshop in which he sells only his own manufactures, any parson vending or disposing of articles of his own growth, produce or manufacture, or any hawker or peddler licensed under any law of the Commonwealth.

*Gross volume of business*—shall include both cash and credit transactions.

*License year*—the 6-month period beginning July 1, 2010, and continuing until December 31, 2010, and thereafter the period commencing January 1 of each year and continuing until December 31 of such year, and so on from year to year. [Ord. 2010-3]

*Person*—any individual, partnership, limited partnership, association or corporation.

*Retail dealer or retail vendor*—any person who is a dealer in, or vendor of, goods, wares and merchandise who is not a wholesale dealer or vendor.

*Wholesale dealer or wholesale vendor*—any person who sells to dealers in, or vendors of, goods, wares and merchandise and to no other persons.

2. The terms “person,” “wholesale dealer, wholesale vendor,” “retail dealer, retail vendor” and “dealer in, or vendor of, goods, wares and merchandise” shall not include nonprofit corporations or associations organized solely for religious charitable or educational purposes.

(Ord. 71-06, 6/3/1971, §3; as amended by Ord. 2010-3, 6/1/2010, §I)

#### **§24-304. Computation of Volume of Business, Estimated.**

1. Every person, subject to the payment of the tax hereby imposed, who has commenced his business at least 1 full year prior to July 1, 1971, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the 12-month period commencing on July 1, 1970 and ending on June 30, 1971.

2. Every person subject to the payment of the tax hereby imposed, who has commenced his business after July 1, 1970, but prior to June 30, 1971, or who has commenced his business on or subsequent to July 1, 1971, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the first month of his engaging in business, multiplied by 12, or multiplied by the number of months of the license year remaining, as the case may be.

3. Every person, subject to the payment of the tax hereby imposed, who engages in a business temporary, seasonal or itinerant by its nature, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the license year.

(Ord. 71-06, 6/3/1971, §4)

**§24-305. Estimated Return.**

1. Every return required by this Part shall be made upon a form furnished by the collector. Every person making a return shall certify the correctness thereof by affidavit under the penalties of perjury. The failure of any taxable under this Part to receive or procure forms required for making the declarations or returns required herein shall not operate to excuse him from making such declaration and return.

2. Every person, subject to the tax imposed by this Part, who has commenced his business prior to July 1, 1971, shall, on or before the 15th day of September, 1971, file with the collector a return setting forth his name, his business and business address and such other information as may be necessary, and shall compute the actual gross amount of business transacted by him during the 12-month period ending June 30, 1971, and the amount of said tax estimated to be due.

3. Every person, subject to the tax imposed by this Part, who has commenced his business less than 1 full year prior to July 1, 1971, shall on or before the 15th day of September, 1971, file with the collector a return setting forth his name, his business, business address and such other information as may be necessary, and shall compute the actual gross amount of business transacted by him during the license year and the amount of the tax estimated to be due.

4. Every person, subject to the tax imposed by this Part, who commences business on or subsequent to July 1, 1971, shall, within 45 days from the date of commencing such business, file a return with the collector setting forth his name, his business, business address and such other information as may be necessary, and shall compute the actual gross amount of business transacted by him during the license year and the amount of the tax estimated to be due.

5. Every person, subject to the payment of the tax imposed by this Part, who engages in a business temporary, seasonal or itinerant by its nature, shall, within 7 days from the day he completes such business, file a return with the collector setting forth his name, his business and business address and such information as may be necessary, and shall compute the actual gross amount of business transacted by him during such period and the amount of the tax due.

*(Ord. 71-06, 6/3/1971, §5)*

**§24-306. Payment.**

At the time of filing the estimated return as set forth in §24-305 hereof, the person making the same shall pay the amount of tax shown as due thereon to the collector.

*(Ord. 71-06, 6/3/1971, §6)*

**§24-307. Computation of Volume of Business and Final Return.**

Prior to August 15, 1972, every person subject to the tax herein imposed shall make a final return to the collector of the actual volume of business transacted by the taxpayer during the license year for which the taxpayer is subject to the tax. Such final return shall state the amount of the gross volume of business as estimated in the first return, the amount of tax paid thereon, and the amount of tax or refund due, if any, upon the final computation.

*(Ord. 71-06, 6/3/1971, §7)*

**§24-308. Adjustment upon Receipt of Final Return.**

At the time of the filing of the final return (§24-307 hereof) if the full amount of the tax due by the taxpayer for the license year has not been paid the taxpayer shall pay the remaining balance due, which amount will be the difference between the amount of tax paid at the time of making the first return on the estimated computation and the amount of the tax shown to be due on the final return. If the taxpayer shall have paid at the time of filing his estimated return tax in excess of the actual amount of tax due as shown upon the final return, the collector shall refund the amount of said excess to the taxpayer.

*(Ord. 71-06, 6/3/1971, §8)*

**§24-309. Penalties and Interest.**

If for any reason the tax is not paid when due, interest at the rate of one-half percent per month, on the amount of said tax due during which time the tax due remains unpaid, shall be added to the tax due and collected together with said tax due. Where suit is brought for the recovery of any such tax, the person shall be liable for, in addition to the tax assessed against such person, the costs of such collection and the interest herein imposed. If any person shall neglect or refuse to file any return and make payment as herein required, a penalty in the amount of 10 percent of the amount of the tax due; in addition to said interest, shall be added by the collector and collected.

*(Ord. 71-06, 6/3/1971, §9)*

**§24-310. Compensation of Collector.**

The collector shall receive such compensation for his services as determined by resolution of the Borough Council upon further study of the revenues generated by this Part and the collection costs thereof.

*(Ord. 71-06, 6/3/1971, §10)*

**§24-311. Duty of Collector.**

1. It shall be the duty of the collector to collect and receive the fees, taxes, interest, 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 paying the tax and the date of such receipt.

2. If the collector is not satisfied with the return and payment of tax made by any taxpayer or supposed taxpayer under the provisions of this Part, he is hereby authorized and empowered to make a determination of the tax due by such person, based upon the facts contained in the return or upon any information within his possession, or that shall come into his possession, and for this purpose, the collector, his deputy or authorized agent are authorized to examine the books, papers and records of any such person to verify the accuracy of any return or payment made under the provisions thereof or to ascertain whether the taxes imposed by this Part have been paid. The collector is hereby authorized and directed to make and keep such records, prepare such forms and take such other measures as may be necessary or convenient to carry this Part into effect.

3. The collector may, in his discretion, require reasonable deposits to be made by

licensees who engage in a business temporary, seasonal or itinerant by its nature.

4. Nothing in the foregoing shall limit the duties and responsibilities otherwise imposed on the collector by law.

(*Ord. 71-06, 6/3/1971, §11*)

**§24-312. Disposition of Taxes Collected.**

1. All taxes, interest and penalties collected or received under the provisions of this Part shall be paid into the general fund of the Borough of Ivyland for the use and benefit of the Borough.

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

(*Ord. 71-06, 6/3/1971, §12*)

**§24-313. Method of Recovery.**

1. All taxes due and unpaid under this Part shall be recoverable by the Borough Solicitor as other debts due to the Borough of Ivyland are now by law recoverable.

2. Any entity taxable under this Part or any person, as defined in this Part, or any officer, agent, servant or employee thereof who shall fail, neglect or refuse to comply with any of the terms or provisions of this Part or of any regulation or requirement pursuant thereto and authorized thereby, shall, in addition to other penalties provided by law, upon summary conviction before a magisterial district judge, be sentenced to pay a fine not less than \$25 nor to exceed \$600 and costs of prosecution of each such offense, or to undergo imprisonment for not more than 30 days from the imposition thereof; such fines imposed by this Section shall be in addition to any other penalty imposed by any other Section of this Part; provided, however, that if any taxable within the provisions of this Part shall offer evidence or testimony or voluntarily submit to examination in any proceeding instituted by the Borough for the recovery of any taxes or interest due or alleged to be due to the Borough under this Part, no process, civil or criminal, for the recovery of any fines or penalties imposed by this Part, may thereafter issue against the persons so testifying or offering such evidence or testimony on account of any violation of the provisions of this Part which such evidence or testimony may disclose. [*Ord. 2011-3*]

(*Ord. 71-06, 6/3/1971, §13; as amended by Ord. 2011-3, 11/9/2011*)





**Part 4****Local Services Tax****§24-401. Definitions.**

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

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

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

*Earned income*—compensation as this term is defined in §13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, §13, as amended, 53 P.S. §6913, as amended.

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

*He, his or him*—indicates the singular and plural number, as well as male, female and neuter genders.

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

*Net profits*—the net income from the operation of a business, profession; or other activity, as this term is defined in §13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1353, §13, as amended, 53 P.S. §6913, as amended.

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

*Political subdivision*—the area within the corporate limits of the Ivyland Borough.

*Tax*—the Local Services Tax at the rate fixed in §24-402 of this Part.

*Tax year*—the period from January 1 until December 31 in any year; a calendar year.

(Ord. 2007-7, 11/28/2007, §1)

**§24-402. Levy of Tax.**

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008; upon the privilege of engaging in an occupation with a primary place of employment within Ivyland Borough during the tax year. Each natural

person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$52, assessed on a pro rata basis, in accordance with the provisions of this Part. This tax may be used solely for the following purposes as the same may be allocated by the Borough of Ivyland from time to time: (A) emergency services, which shall include emergency medical services, police services and/or fire services; (B) road construction and/or maintenance; (C) reduction of property taxes; or (D) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S.A., Ch. 85, Subch. F (relating to homestead property exclusion). The political subdivision shall use no less than 25 percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

(Ord. 2007-7, 11/28/2007, §2)

### **§24-403. Exemption and Refunds.**

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

A. Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans Administration or its successor to be a total 100 percent 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 the purposes of this paragraph, "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.

2. *Procedure to Claim Exemption.*

A. A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than \$12,000 in the calendar year for which the exemption certificate is filed. A copy of the exemption certificate is attached hereto and incorporated herein as Exhibit "24-4-A." In the event the political subdivision uses a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political

subdivision or except as required by paragraph .B, the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.

B. With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the municipality in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person under paragraph .C.

C. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under paragraph .B, the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under paragraph .B, a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this Section, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this Part.

D. Except as provided in paragraph .B, it is the intent of this Section that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

3. *Refunds.* The Borough of Ivyland in consultation with the collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accordance with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. An individual entitled to a refund shall submit a refund application to the Borough of Ivyland. A copy of the refund application is attached hereto and incorporated herein by reference as Exhibit "24-4-B." Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The Borough of Ivyland or the collector shall determine eligibility for exemption and provide refunds to exempt persons.

(Ord. 2007-7, 11/28/2007, §3)

**§24-404. Duty of Employers to Collect.**

1. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.

2. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest .01 of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in subsection .4 of this Section. For purposes of this subsection, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.

3. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

4. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within 2 weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

5. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.

6. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of §24-403.2 of this Part and remits the amount so withheld in accordance with this Part.

7. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of a calendar year.

*(Ord. 2007-7, 11/28/2007, §4)*

**§24-405. Returns.**

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

(Ord. 2007-7, 11/28/2007, §5)

**§24-406. Self-Employed Individuals.**

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

(Ord. 2007-7, 11/28/2007, §6)

**§24-407. Individual Engaged in More than One Occupation or Employed in More than One Political Subdivision.**

1. 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 to work in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:

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.

2. 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. 2007-7, 11/28/2007, §7)

**§24-408. Nonresidents Subject to Tax.**

All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engaged in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Part with the same force and effect as though they were residents of the political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purposes of this Part, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option of

proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

(*Ord. 2007-7, 11/28/2007, §8*)

**§24-409. Administration of Tax.**

1. The collector shall be appointed by resolution of the political subdivision. It shall be the duty of the collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer of self-employed person, together with the date the tax was received.

2. The collector is hereby charged with the administration and enforcement of this Part and is hereby charged and empowered, subject to municipal approval, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination of payroll records of any employer subject to this Part, the examination and correction of any return made in compliance with this Part and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the collector shall have the right to appeal consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998 (municipalities may detail their appeal processes).

3. The collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the collector the means, facilities and opportunity for such examination.

(*Ord. 2007-7, 11/28/2007, §9*)

**§24-410. Suits for Collection.**

1. In the event that any tax under this Part remains due or unpaid 30 days after the due dates above set forth, the collector may sue for the recovery of any such tax due or unpaid under this Part, together with interest and penalty.

2. If for any reason the tax is not paid when due, interest at the rate of 6 percent on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5 percent shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection.

(*Ord. 2007-7, 11/28/2007, §10*)

**§24-411. Violations and Penalties.**

Whoever makes any false or untrue statement on any return required by this Part, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this Part shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any

employer who shall have failed or who refuses to file a return required by this Part.  
(*Ord. 2007-7, 11/28/2007, §11*)

**§24-412. Interpretation.**

1. Nothing contained in this Part shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

2. If the tax hereby imposed under the provisions of this Part shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

(*Ord. 2007-7, 11/28/2007, §12*)





**Exhibit "24-4-A"**

**Local Services Tax-Exemption Certificate**

Tax Year \_\_\_\_\_

**APPLICATION FOR EXEMPTION FROM LOCAL SERVICES TAX**

- A copy of this application for exemption from the Local Services Tax (LST), and all necessary supporting documents, must be completed and presented to your employer AND to the political subdivision levying the Local Services Tax where you are principally employed.
- This application for exemption from the Local Services Tax must be signed and dated.
- No exemption will be approved until proper documentation has been received.

Name: \_\_\_\_\_ Soc Sec #: \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone #: \_\_\_\_\_  
 City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

**REASON FOR EXEMPTION**

1. \_\_\_\_\_ **MULTIPLE EMPLOYERS:** Attach a copy of a current pay statement from your principal employer that shows the name of the employer, the length of the payroll period and the amount of Local Services Tax withheld. List all employers on the reverse side of this form. You must notify your other employers of a change in principal place of employment within two weeks of the change.
2. \_\_\_\_\_ **EXPECTED TOTAL EARNED INCOME AND NET PROFITS FROM ALL SOURCES WITHIN \_\_\_\_\_ (municipality or school district) WILL BE LESS THAN \$ \_\_\_\_\_:** Attach copies of your last pay statements or your W-2 for the year prior.  
 If you are self-employed, please attach a copy of your PA Schedule C, F, or RK-I for the prior year.
3. \_\_\_\_\_ **ACTIVE DUTY MILITARY EXEMPTION:** Please attach a copy of your orders directing you to active duty status. Annual training is not eligible for exemption. You are required to advise the tax office when you are discharged from active duty status.
4. \_\_\_\_\_ **MILITARY DISABILITY EXEMPTION:** Please attach copy of your discharge orders and a statement from the United States Veterans Administrator documenting your disability. Only 100% permanent disabilities are recognized for this exemption.

**EMPLOYER:** Once you receive this Exemption Certificate, you shall not withhold the Local Services Tax for the portion of the calendar year for which this certificate applies, unless you are otherwise notified or instructed by the tax collector to withhold the tax.

Tax Office: \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone #: \_\_\_\_\_  
 City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

**IMPORTANT NOTE TO EMPLOYERS**

1. The municipality is required by law to exempt from the LST employees whose earned income from all sources (employers and self-employment) in their municipality is less than \$12,000 when the levied rate exceeds \$10.00.
2. The school district for the municipality in which your worksite(s) is located may or may not levy an LST. If it does, the income exemption provided may differ from the municipality and can be anywhere from \$0 to \$11,999.
3. Contact the tax office where your business worksites are located to obtain this information.

**Employment Information: List all places of employment for the applicable tax year. Please list your PRIMARY EMPLOYER under #1 below and your secondary employers under the other columns. If self employed, write SELF under Employer Name column.**

	1. PRIMARY EMPLOYER	2.	3.
Employer Name			
Address			
City, State Zip			
Municipality			
Phone			
Start Date			
End Date			
Status (FT or PT)			
Gross Earnings			

	4.	5.	6.
Employer Name			
Address			
City, State Zip			
Municipality			
Phone			
Start Date			
End Date			
Status (FT or PT)			
Gross Earnings			

**PLEASE NOTE:**

All information received by the Tax Collector is considered to be CONFIDENTIAL and is only used for official purposes relating to the collection, administration and enforcement of the LOCAL SERVICES TAX.

**I DECLARE UNDER PENALTY OF LAW THAT THE INFORMATION STATED ON AND ATTACHED TO THIS FORM IS TRUE AND CORRECT:**

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**Exhibit "24-4-B"**

**Local Services Tax-Refund Application**

\_\_\_\_\_  
Tax Year

**APPLICATION FOR REFUND FROM LOCAL SERVICES TAX**

- A copy of this application for a refund of the Local Services Tax (LST), and all necessary supporting documents, must be completed and presented to the tax office charged with collecting the Local Services Tax.
- This application for a refund of the Local Services Tax must be signed and dated.
- **No refund will be approved until proper documentation has been received.**

Name: \_\_\_\_\_ Soc Sec #: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone #: \_\_\_\_\_  
City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

**REASON FOR REFUND-CHECK ALL THAT APPLY**

1. \_\_\_\_ I overpaid by more than \$1.
2. \_\_\_\_ I had the tax withheld when it should have been exempted.
3. \_\_\_\_ **MULTIPLE EMPLOYERS:** Please attach a copy of a current pay statement from your principal employer that shows the name of the employer, the length of the payroll period and the amount of Local Services Tax withheld. Please list all employers on the reverse side of this form.
2. \_\_\_\_ **TOTAL EARNED INCOME AND NET PROFITS FROM ALL SOURCES WITHIN** \_\_\_\_\_ (municipality or school district) **WAS LESS THAN \$ \_\_\_\_\_:** Please attach a copy of all of your last pay statements from all employers within the political subdivision for the year prior to the fiscal year for which you are requesting to be exempted from the Local Services Tax.  
If you are self-employed, please attach a copy of your PA Schedule C, F, or RK-I for the prior year to the fiscal year for which you are requesting to receive a refund of the Local Services Tax.
3. \_\_\_\_ **ACTIVE DUTY MILITARY EXEMPTION:** Please attach a copy of your orders directing you to active duty status.
4. \_\_\_\_ **MILITARY DISABILITY EXEMPTION:** Please attach copy of your discharge orders and a statement from the United States Veterans Administrator or its successor declaring your disability to be a total one hundred percent permanent disability.

Tax Office: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone #: \_\_\_\_\_  
City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

**Employment Information: List all places of employment for the applicable tax year. Please list your PRIMARY EMPLOYER under #1 below and your secondary employers under the other columns. If self employed, write SELF under Employer Name column.**

	1. PRIMARY EMPLOYER	2.	3.
Employer Name			
Address			
City, State Zip			
Municipality			
Phone			
Start Date			
End Date			
Status (FT or PT)			
Gross Earnings			

	4.	5.	6.
Employer Name			
Address			
City, State Zip			
Municipality			
Phone			
Start Date			
End Date			
Status (FT or PT)			
Gross Earnings			

**PLEASE NOTE:**

All information received by the Tax Collector is considered to be CONFIDENTIAL and is only used for official purposes relating to the collection, administration and enforcement of the LOCAL SERVICES TAX.

**I DECLARE UNDER PENALTY OF LAW THAT THE INFORMATION STATED ON AND ATTACHED TO THIS FORM IS TRUE AND CORRECT:**

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**Part 5****Tax Certifications****§24-501. Tax Collector Authorized to Provide Tax Certifications.**

Ivyland Borough hereby appoints the locally-elected Ivyland Borough Tax Collector as the Borough officer authorized to provide tax certifications upon request by the public and hereby authorizes said tax collector to assess, collect and retain, as compensation for providing such additional service, a fee, per certification, which shall be established by resolution of the Borough Council, and which may be amended by resolution of the Borough Council from time to time.

*(Ord. 1995-2, 9/20/1995, §1)*



**Part 6****Penalties and Interest****§24-601. Penalty.**

It is hereby ordained and enacted that effective as of this date, all taxes which are not paid to the Borough for 4 months after the date of the tax notice, shall be delinquent and the taxpayers shall be charged a penalty of 10 percent, which penalty shall be added to the taxes by the Tax Collector and be collected by her in accordance with applicable law.

*(Ord. 1977-2, 2/2/1977, §1)*

