

ORDINANCE NO. 467

ORDINANCE OF THE BOROUGH OF FOREST CITY, SUSQUEHANNA COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING ORDINANCE NUMBER ~~305~~, KNOWN AS THE WAGE TAX ORDINANCE, ESTABLISHING EARNED INCOME AND NET PROFITS TAX RULES AND REGULATIONS FOR COLLECTING TAXES WITHIN THE BOROUGH, PROVIDING FOR PENALTIES FOR VIOLATIONS OF SUCH RULES AND REGULATIONS AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Borough of Forest City is desirous of updating its laws, rules and regulations concerning the collection of applicable taxes in the Borough.

NOW, THEREFORE, BE IT ORDAINED AN ENACTED AS FOLLOWS:

**EARNED INCOME AND NET PROFITS TAX
RULES AND REGULATIONS**

ARTICLE I - GENERAL PROVISIONS

SECTION 101. DEFINITIONS

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

ASSOCIATION. A partnership, limited partnership, or any other unincorporated group of two or more persons including a Limited Liability Company.

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 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. One's domicile is one's fixed and permanent home to which he or she always has the intention of returning whenever absent, even though he or she may live elsewhere. He or she can have only one state of domicile at any given time. A person's state of domicile does not change until he or she moves to another district with the sincere intention of making his or her permanent home there and abandoning his or her previous domicile. Domicile is the voluntary 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. 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. Earned income or compensation includes items of remuneration received, directly or through an agent in cash or in property, based on payroll periods or piecework, for services rendered as an employee or casual employee, agent or officer of an individual, partnership, business or nonprofit corporation, or government agency. These items include salaries, wages, commissions, bonuses, stock options, incentive payments, fees, tips, dismissal, termination or severance payments, early retirement incentive payments, and other additional compensation contingent upon retirement, including: payments in excess of the scheduled or customary salaries provided for those who are not terminating service, rewards, vacation and holiday pay, paid leaves of absence, payments for unused vacation or sick leave, tax assumed by the employer, or casual employer signing bonuses, amounts received under employee benefit plans and deferred compensation arrangements, and other remuneration received for services rendered.

Compensation Item	Treatment under Act 511	Treatment as of 1/1/2003
Back pay	Taxable	Taxable
Bonuses	Taxable	Taxable
Business Net Loss	Allowable Offset of Earned Income	No Change
Cafeteria Plans	Taxable	Not Taxable
NOTE: Cafeteria plans in general are not considered to be "non-taxable" under ACT 166, it is only those items with a qualified Section 125 Plan that are for hospitalization sickness, disability or death, supplemental unemployment benefits or strike benefits. Dependent care benefits paid through a cafeteria plan would still be taxable for local income tax purposes.		
Clergy Housing	Taxable	Not Taxable
Clergy Pay	Taxable	Taxable
Commissions	Taxable	Taxable
Company Automobile (Personal Use)	Taxable	Not Taxable
Deceased Taxpayer's Wages or Earnings	Taxable	Taxable
Dependent Care Assistance	Taxable	Taxable
401(k) Premature Distributions		
- Employee Contribution	Not Taxable	Not Taxable
- Employer Contribution	Taxable	Taxable
- Interest Earned	Not Taxable	Taxable

(Employer contributions not taxed when earned, are taxable at distribution)		
Golden Parachute Payments	Taxable	Taxable
Group Legal Services	Taxable	Taxable
Guaranteed Payments to Partners	Taxable as Earned Income	Included with PA RK-1
There are two types of guaranteed payments reported on the PA RK1: One is for services rendered and is considered to be taxable and the other is for the use of capital and is considered to be not taxable.		
Holiday Pay	Taxable	Taxable
Incentive Payments	Taxable	Taxable
Jury Duty Pay	Taxable	Taxable
Mortgage Assistance in lieu of other compensation	Taxable	Taxable
Non-cash Payment for services rendered	Taxable	Taxable
Non-compete agreements	Taxable	Taxable
Non-qualified Deferred Compensation	Taxable	Taxable
Overtime Pay	Taxable	Taxable
PA Earned Military Pay	Not Taxable	Taxable
Probate-Executor Fees	Taxable	Taxable
Qualified Deferred Compensation	Taxable	Taxable
Retroactive wage increases	Taxable	Taxable
Salaries and wages	Taxable	Taxable
Salary Advances	Taxable	Taxable
Severance Pay	Taxable	Taxable
Sick Pay (regular wages)	Taxable	Taxable
Sick Pay (third party)	Not Taxable	Not Taxable
Stand-By Pay	Taxable	Taxable
Stock Bonus Plans	Taxable	Taxable
Stock Options	Taxable	Taxable
Supplemental Wage Plans	Not Taxable	Taxable
Taxes assumed by employer	Taxable	Taxable
Tips	Taxable	Taxable
Vacation Pay	Taxable	Taxable

REALIZED INCOME. Is defined as "investment income," not earned income/compensation.

EMPLOYEE. A person employed by an employer for a salary, wage, commission or other compensation. Any person who renders services to another for a financial consideration or its equivalent, under an express or implied contract, and who is under the control and direction of the latter and shall include temporary, provisional, casual, or part-time employment.

EMPLOYER. A person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary,

wage, commission or other compensation.

INCOME TAX OFFICER. Person, administrator, public employee or private agency designated by governing body to collect and administer the tax on earned income and net profits.

INDEPENDENT CONTRACTOR. A person who, while performing services, is not under the direction and control of another person, as to the result to be accomplished by the work and as to the details and means by which that result is accomplished, such as authors, professional people, seamstresses, laundresses, tailors and registered and practical nurses. Where the independent contractor is in the permanent or part-time employment of an employer, however, that contractor will be considered an employee of said employer for the purpose of withholding the tax due under the Resolution, or Ordinance.

I.R.C. The Internal Revenue Code, as amended from time to time.

LIMITED LIABILITY COMPANY. An association that is a limited liability company organized and existing under Act 106 of 1994, known as the Limited Liability Company Act.

NET PROFITS. The net income from the operation of a business, profession, or other activity, except corporations, determined under section 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and regulations in 61 Pa.Code Pt. 1 Subpt. B Art. 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 twelve months or more for draft, breeding or dairy purposes; and
- (4) any gain on the sale of other capital assets of the farm.

NET LOSSES. The Pennsylvania Supreme Court has ruled that the tax is levied on total earned income and on net profits. Taxpayers may deduct proper, permitted business losses from wage and salary income. However, the Court let stand a prior Commonwealth Court ruling that taxpayers could not apply net losses from one business against the net profits of another business. Liability for earned income taxes on net profits is to be calculated for each business separately. (Aronson vs. City of Pittsburgh, 845A 2nd 890; Pa. CMWLTH. Court, 1985).

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.

S CORPORATION. A corporation that is eligible to choose S Corporation status and whose shareholders have all consented to the corporation's choice of S Corporation status as per Pennsylvania Law.

SUCCEEDING YEAR. The calendar year following the current year.

TAXING DISTRICT. The individual Municipalities and/or School District, which have enacted the earned income tax and net profits tax.

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.

TAX. The earned income/compensation tax and/or net profits tax enacted under Act 511, P.L. 1257 as amended and known as "The Local Tax Enabling Act 166 of 2002." Tax includes interest, penalties and additions to tax, and further includes the tax required to be withheld by an employer on earned income/compensation paid, unless a more limited meaning is disclosed by the context.

TOTAL INCOME. The sum of "Earned Income/Compensation" plus "Net Profits."

ARTICLE II - IMPOSITION OF TAX

SECTION 201. PERSONS SUBJECT TO TAX AND THE TAX RATE

All residents of the participating member Municipalities and the School District; and nonresidents thereof, who are not required to file and/or pay a similar tax elsewhere, are subject to this tax when the municipality in which they work has a nonresident clause in their Ordinance, whether such activities are carried on within or outside the municipality. School Districts may not tax nonresidents.

- A. "Resident" a person who is domiciled in the Taxing District as evidenced among other things, by one or more of the following:
 - a. By the taxpayer customarily being physically present, sleeping and eating there;
 - b. By the taxpayer holding himself/herself out as residing there, i.e., giving address in registration for licenses, voting and payment of personal or property taxes, or state or federal income taxes;
 - c. By the taxpayer's spouse and minor children living there;

- d. By the taxpayer maintaining religious, civic and club affiliations there;
- e. By the center of the taxpayer's affairs appearing to be there.

Normally, it is not difficult to determine the domicile of a person because most of the determining factors point to one conclusion. Obviously, if a taxpayer has all of the foregoing factors occurring in one district, the taxpayer is a resident of that district. Of more difficulty is the situation concerning persons for whom some of the factors occur in one district and others take place elsewhere. In such cases, domicile shall be determined, by the Officer, based upon all facts and circumstances relevant to the case. (Refer to Section 101 definition of Domicile).

- B. By virtue of the Ordinances and Resolutions adopted by the various member taxing jurisdictions, the tax rate is one percent or any fraction thereof, unless or until the tax rate is amended in the respective Ordinances and Resolutions or by any act passed or amended by the Pennsylvania General Assembly.

SECTION 202. WHAT IS TAXED?

- A. The tax is imposed on earned income/compensation and net profits as defined in Section 101 of these Rules and Regulations. These items are subject to the tax whether a taxpayer receives them directly or through an agent and whether a taxpayer receives them in cash or in another medium. Where a taxpayer has received a remuneration, a portion of which is attributable to services provided ("the earnings component") and another portion of which is not attributable to services rendered, then only the "earnings component" shall be subject to tax.
- B. The tax levied under the Act and Sections 203 and 204 shall be applicable to earned income/compensation received and to net profits earned in the period beginning January 1, of the current year, and ending December 31, of the current year or for taxpayer fiscal years beginning in the current year, except that taxes imposed for the first time shall become effective from the date specified in the Ordinance or Resolution, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed. Changes in rate shall become effective on the date specified in the Ordinance or Resolution.
- C. Trusts or estates. Every estate or trust must pay the tax (1) on net profits resulting from its engagement in any business, trade or other activity which would require the filing of a return by an individual or partnership, and (2) on income which would be subject to the tax if received by an individual or partnership.

SECTION 203. EARNED INCOME

The statutory definitions of "Earned Income" and "Compensation" can be found in Section 101, Definitions. The purpose of this section is not to modify these definitions, but to provide additional clarification through various examples and explanations. This list of examples and explanations is not exhaustive and in no way limits what constitutes taxable income.

- A. Gross Salaries including any payments accruing from employment, including but not limited to salary advances, annual leave, stand-by pay, overtime, vacation, holiday, severance, separation pay or benefits.
- B. Gross Wages
- C. Commissions
- D. Bonuses
- E. Drawing accounts as reported on current year's Form W-2. (If amounts received as a drawing account exceed the salary or commissions earned, the tax is payable on the amounts received. If the employee subsequently repays to the employer any amounts not in fact earned, the tax shall be adjusted accordingly).
- F. Clergy Pay: If a member of the clergy is considered a "common law employee," the cleric's occupancy of a parsonage owned by the congregation and provided for the convenience of the congregation is not taxable as compensation. All housing allowances provided to clergy are taxable as compensation.

If a member of the clergy is not a "common law employee" and is a sole proprietor who offers his/her services in a market place (i.e. to a nonexclusive, indefinite number of individuals or congregations), income is considered to be derived from a business or profession and is reported on Schedule C.

- G. Incentive Payments: Payments received from employers or on behalf of employers, other than the usual compensation, for the purpose of inducing the employee to make a decision - such as buying out an agreement or contract or moving to another location or accepting an early retirement or "Golden Parachute Settlements" - are incentive payments. Such payments/ settlements constitute taxable income. Incentive payments are not to be considered "retirement" as referenced in Section 101, definition of Earned Income. Lump sum payments shall be taxable in the year received by the employee or former employee. If the payment/settlement of such sums is to be made in the future, such sums shall be taxed in the year they are received. Incentive payments include Stock Appreciation Rights (SAR) and/or phantom stock plan payment, where these payments are attributable to remuneration for services rendered.

(a.) EXAMPLE: Employer offers to give employee F an INCENTIVE PAYMENT of \$20,000 if employee F agrees to depart or retire before his scheduled date. The \$20,000 is to be paid at a rate of \$5,000 per year over a four year period after the retirement becomes effective. The \$20,000 is taxable income. It will be taxed in the years that it is received by employee F. That is to say that employee F shall have to include as earned income/compensation the extra \$5,000 received in

each of the four years following his retirement.

- (b.) EXAMPLE: The employee has been a product manager with an art supply business for 12 years. He and his wife purchased a home for \$80,000, \$55,000 of which they financed through a loan from their bank. The lending rate for home mortgages was 6%, and their mortgage payments were \$520 per month.

Twelve years after purchasing the house, he was offered a transfer to another location to open a sales office and showroom. His employer agreed to reimburse him for his moving expenses if he took the assignment. When he and his wife traveled there to look for a new residence, they were told that a comparable home in that area would be \$130,000 and that the mortgage rate would be 8.5%. The mortgage payment would be \$952. His employer was willing to pay the \$432 difference between his old and new mortgage for two years. This form of reimbursement is wages to the employee, subject to earned income/compensation and payroll tax withholding.

- (c.) EXAMPLE: In a SAR plan, the employee-participant is allowed to share in the appreciation in the value of the company stock plan. The employee shares in the appreciation in value of the company stock over the period selected.

In a phantom stock plan, the employee shares in the appreciation and is also given the value of the stock at the starting point.

In each of these plans, the employee is not the owner of any shares. By agreement the employee participates in the growth of the business's value through a formula that measures the growth in value of the company's stock. The employee is credited on paper, with a percentage of the growth in value, which value is convertible to cash at a future date. The employee will be taxed on the date in the future that he or she receives the cash benefit.

- (d) EXAMPLE: An employer offers and pays an employee 15% on a house purchase in another location in lieu of the employer acquiring the employee's house and becoming responsible for selling the house. This type of circumstance shall be considered as an incentive for the employee to move to another location. IF the payment is restricted or imperfect with a qualified right to enter (confined, temporary, modified, conditioned, limited provisional, guarded, ambiguous, reserved, dependent, defined) it shall not be taxable as earned income/compensation.

The employee is responsible for providing proper documentation to this office so as to establish whether this payment is or is not restricted.

Moving expenses, which are permitted on PA Schedule UE, will be deductible.

(e) EXAMPLE: Auto manufacturers incentive payments paid by or on behalf of any automobile manufacturer, whether directly to individual salespersons or through a dealership are taxable for local earned income/compensation tax purposes.

- H. Tips, gratuities, honoraria, financial counseling services allowance, travel allowance, moving allowance, mortgage differential, legal service allowance, grossed up income. Reimbursements received in cash, when in excess of allowable physical moving expense. (Refer to Section 209 for deductions against income)
- I. Fees include: Administrator fee, Director fee, Executor fee, Expert witness fee, Fiduciary fee, Honoraria fee (if one's profession is being a professional speaker), Trustee fee, fee received for service performed by taxpayer, and fee received for decision made by taxpayer. The fees referenced herein involve activity and participation on the part of the taxpayer.
- J. Earning component of stock option plans when the option is exercised. The "earnings component" is considered to be the difference between the stock option price and the fair market value of the stock at the time the option is exercised.

EXAMPLE: There is a basis under the LTEA for taxing the "earnings component" of stock option plans. Stock option plans have an earnings component, namely the difference between the option price and the fair market value of stock at the time the option exercised. This difference is to be reported on the taxpayer's W-2 form and is taxable for local earned income/compensation tax purposes, upon exercise of the stock option.

The Pennsylvania Supreme Court is in its' 2/22/2000 decision in the Marchlen case makes no distinction between qualified and non-qualified stock option plans. The case site is:

"Louis Thomas Marchlen Appellee, vs. The Township of Lebanon, al, No. 7 W.D. Appeal Docket 1998 (707 Atl 2nd 631, PA Cmwlt. 1998)

"At the time the stock options in this case were granted to Appellee, they could not be exercised. This does not imply that stock options have no value at the time they are granted. Stock options are valuable inducements to attract and retain employees and to compensate them for their services. The holder of a stock option can reap the benefits of stock price increases without bearing the risks of stock price declines. However, at the time that the stock option is granted, its "value" is purely speculative, for should the fair market value of the stock drop below the purchase price of the option, the exercise of the option on or after its maturity date would result in a loss to the holder of the option – i.e.

the option would be worthless. In contrast, should the fair market value of the stock rise above the purchase price of the option, the exercise of the option on or after its maturity date would result in a gain to the holder of the option. Further, the holder of the stock option may well choose not to exercise the option. Thus, it is not that stock options have no value at the time they are granted, rather, the value of the stock option is speculative and not readily ascertainable until exercised. It is precisely for this reason that the taxing authority must wait until the exercise of the stock option to compute the associated tax liability.

This says absolutely nothing about qualified vs. non-qualified plans. This says that all stock options without differentiation are taxable when exercised. It makes no difference if the plans are qualified or not.

The only limitation imposed by Marchlen is, "...that the taxing authority must wait until the exercise of the stock option to compute the associated tax liability."

Employers have an obligation to withhold the local earned income/compensation tax on the "earnings component" of stock options at the time the option is exercised. Employers should also report the "earnings component" as a part of the local wages total on the employee's W-2 form.

- K. Fair market value of all non-cash fringe benefits accruing by virtue of employment recognized as taxable by the IRC or the Pennsylvania Department of Revenue are also to be included as taxable income for purposes of the tax.

EXAMPLES:

- (a) Stock options.
- (b) Group legal services plan
- (c) Dependent care assistance programs
- (d) Mortgage assistance in lieu of other compensation.
- (e) Non-cash payment for services rendered
- (f) Stock bonus plans
- (g) Automobile allowance which exceeds actual expenses incurred

- L. Taxes assumed by the employer for the employee - The payment of taxes by employers in consideration of services rendered by the employee is a gain derived by the employee for her or his labor and is therefore considered as part of her or his Earned Income. This income is taxable in the year that it is reported as taxable on the W-2 Form or similar form.

- M. Regular wages received during a period of sickness or disability.

- N. Employee contributions to deferred compensation plans and old age or retirement benefit programs, or cafeteria plans.

Any plan, which through an employee's contribution serves to reduce gross taxable wages for federal income tax purposes is not recognized as an exclusion for the tax and will

therefore be taxed accordingly. For example, an employee's contribution/deferment under Section 403(b); Section 457(b); or Section 401(k) of the Internal Revenue Code will not be recognized as a reduction of taxable wages for purposes of the tax.

O. National Guard Pay and Military Reserve Pay,

Compensation earned by residents in the Armed Forces serving on Active duty outside Pennsylvania is not taxable. However, compensation earned by a resident for military service on active duty in Pennsylvania is subject to tax. Reservists and National Guardsmen ordered to Active duty for training at a two-week summer encampment pursuant to Title 10 or Title 73 of the U.S. Code is presumed to be on Federal active duty.

Military pay received for service performed while on Federal active duty is excludable from taxable compensation provided the active duty training is performed outside Pennsylvania.

P. Stipends paid to graduate assistant. (Also see Section 205V).

Q. All other forms of compensation or remuneration for an employee's services rendered, whether in cash, property or services. This shall include prizes and awards when the recipient has rendered substantial service as a condition to receive the prize or award.

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

S. Distributions received prior to the taxpayer's actual date of retirement, including but not limited to E.S.O.P., P.A.Y.S.O.P., 401k, 403b, 457b, cafeteria plans, etc. shall be taxable on the employer's contributed portion, if the distribution is not rolled into an individual retirement account, annuity plan, or another qualified retirement plan.

T. That portion of salary or wages, which an employee contributes under a plan, which provides for an employee's election to contribute a portion of his/her salary or wages to receive a benefit in lieu of receiving the cash is taxable. The actual amount the employee elects not to receive in cash is the amount in which is taxable and shall be included as gross salary or wages when filing the tax return with this office, as the employee has constructive control of the cash.

This amount is to be included in the W-2 total for local wages and the applicable earned income tax is to be withheld on this portion of the employee's gross salary or wages.

U. Back pay awards when the payment represents salary, wages, commissions, bonuses, incentive payments, fees, tips or other compensation to which the

employee is entitled for services rendered.

SECTION 204. NET PROFITS

Persons, Activities and Property subject to the tax on Net Profits shall include any item correctly reportable on the "Net Profits from Business, Profession or Farm" and "Net Income from Rents, Royalties for personal services, plus Patents and Copyrights for personal services," lines of Form PA 40R, line 4 or as reported on Pennsylvania PA-40, Schedule C, F and RK-1.

Any individual engaged in a business, trade, profession or other activity carried on for a profit, shall pay the tax on the Net Profits there from. The form of business shall not be the determining factor. In determining whether an activity is engaged in for profit, greater weight is given to objective facts than to the taxpayer's mere statement of his intent.

A. Relevant factors. In determining whether an activity is engaged in for profit, all facts and circumstances with respect to the activity are to be taken into account. No one factor is determinative in making this determination. In addition, it is not intended that only the factors described in this paragraph are to be taken into account in making the determination, or that a determination is to be made on the basis that the number of factors (whether or not listed in this paragraph) indicating a lack of profit objective exceeds the number of factors (whether or not listed in this paragraph) indicating a lack of profit objective exceeds the number of factors indicating a profit objective, or vice versa. Among the factors, which should normally be taken into account, are the following:

1. Manner in which the taxpayer carries on the activity. The fact that the taxpayer carries on the activity in a businesslike manner and maintains complete and accurate books and records may indicate that the activity is engaged in for profit. Similarly, where an activity is carried on in a manner substantially similar to other activities of the same nature, which is profitable, a profit motive may be indicated. A change of operating methods, adoption of new techniques or abandonment of unprofitable methods in a manner consistent with intent to improve profitability may also indicate a profit motive.

2. The expertise of the taxpayer or the taxpayer's advisors. Preparation for the activity by extensive study of its accepted business, economic, and scientific practices, or consultation with those who are expert therein, may indicate that the taxpayer has a profit motive where taxpayer carries on the activity in accordance with such practices, a lack of intent to derive profit may be indicated unless it appears that the taxpayer is attempting to develop new or superior techniques which may result in profits from the activity.

3. The time and effort expended by the taxpayer in carrying on the activity. The fact that the taxpayer devotes much of her/his personal time and effort to carrying on an activity, particularly if the activity does not have substantial

personal or recreational aspects, may indicate an intention to derive a profit. A taxpayer's withdrawal from another occupation to devote most of his/her energies to the activity may also be evidence that the activity is engaged in for profit. The fact that the taxpayer devotes a limited amount of time to an activity does not necessarily indicate a lack of profit motive where the taxpayer employs competent and qualified persons to carry on such activity.

4. The success of the taxpayer in carrying on other similar or dissimilar activities. The fact that the taxpayer has engaged in similar activities in the past and converted them from unprofitable enterprises may indicate that the taxpayer is engaged in the present activity for profit, even though the activity is presently unprofitable.

5. The taxpayer's history of income or losses with respect to the activity. A series of losses during the initial or start-up stage of an activity may not necessarily be an indication that the activity is not engaged in for profit. However, where losses continue to be sustained beyond the period of which customarily is necessary to bring the operation to profitable status, such continued losses if not explainable, as due to customary business risks or reverses, may be indicative that the activity is not being engaged in for profit. If losses are sustained because of unforeseen or fortuitous circumstances which are beyond the control of the taxpayer, such as drought, disease, theft, weather damages, other involuntary conversions, or depressed market conditions, such losses would not be an indication that the activity is not engaged in for profit. A series of years in which net income was realized would of course be strong evidence that the activity is engaged on for profit.

6. The amount of occasional profits, if any, which are earned. The amount of profits in relation to the amount of losses incurred, and in relation to the amount of the taxpayer's investment and the value of the assets used in the activity, may provide useful criteria in determining the taxpayer's intent. An occasional small profit from an activity generating large losses, or from an activity in which the taxpayer has made a large investment, would not generally be determinative that the activity is engaged in for profit. However, substantial profit, though only occasional, would generally be indicative that an activity is engaged in for profit, where the investment or losses are comparatively small. Moreover and opportunity to earn a substantial ultimate profit in a highly speculative venture is ordinarily sufficient to indicate that the activity is engaged in for profit even though losses or only occasional small profits are actually generated.

7. The financial status of the taxpayer. The fact that the taxpayer does not have substantial income or capital from sources other than the activity may indicate that an activity is engaged in for profit. Substantial income from sources other than the activity (particularly if the losses from the activity generate substantial tax benefits) may indicate that the activity is not engaged in for profit especially if there are personal or recreational elements involved.

8. Elements of personal pleasure or recreation. The presence of personal motives in carrying on of an activity may indicate that the activity is not engaged in for profit, especially where there are recreational or personal elements involved. On the other hand, a profit motivation may be indicated where an activity lacks any appeal other than profit. It is not however, necessary that an activity be engaged in with the exclusive intention of deriving a profit or with the intention of maximizing profits. For example, the availability of other investments, which would yield a profit, is not evidence that an activity is not engaged in for profit. An activity will not be treated as not engaged in for profit, merely because the taxpayer has purposes or motivations other than solely to make a profit. Also, the fact that the taxpayer derives personal pleasure from engaging in the activity is not sufficient to cause the activity to be classified as not engaged in for profit if the activity is in fact engaged in for profit as evidenced by other factors whether or not listed in this paragraph.

Examples of net profits without intending in any way to limit the provisions of the Resolutions and Ordinances of the participating Municipalities and School Districts are:

- A. The net profits of a business, profession or farm conducted by a sole proprietor as computed according to the laws, regulations and procedures for computing Federal Income Tax "net profits" or "net farm profits" and required to be reported on Federal Income Tax Form 1040 (Schedules C, E, or F of the current year edition).
- B. The net profits of a business, profession or farm conducted as a partner as computed according to the laws, regulations and procedures for computing Federal Income Tax "net earnings from self employment" and as required to be reported on Pennsylvania Income Tax Form (Schedule RK-1 of current year edition).
- C. The net profits of a limited liability company/limited liability partnership as referenced in Act 106 of 1994 known as the Limited Liability Company Act, in Section 8925 of the Act.
- D. Net profits from the operation of hotels, motels, tourist homes, boarding houses, bed and breakfast establishments, mobile home parks, childcare, adult care, day care, and other similar businesses.
- E. Net income from Rental of Real Estate as reported to State of Pennsylvania on PA-40R. Any individual obtaining net profits from the rental or leasing of any commercial, industrial or residential property must file and pay the Tax on such profits. (Also refer to Section 205 H and Q).

The rent of tangible property would constitute a business if:

- 1. The taxpayer offers the use of his or her property on a commercial basis to others in a marketplace and at least one of the following applies:

- (a) The average period of customer use is 30 days or less; or
 - (b) The property is customarily made available for use only during defined business hours; or
 - (c) In addition to the property, the taxpayer also provides significant services to the lessee, or
 - (d) the taxpayer incurs significant operating expenses in making the property available for lease; or
 - (e) The leasing activity is incidental to a real estate sales business; and
2. The taxpayer offers the use of his or her property with the intention of realizing a profit; and
 3. The leasing of the property is characterized by regularity and continuity of activities.

Real estate rentals received in the course of a trade or business are taxable. Rental income received from the operation of real estate is subject to this tax when the owner actively manages and supervises the property himself/herself or through agents or servants, by providing labor and service in connection with it. By furnishing labor and service - this signifies activity and participation of the part of the owner and classifies him or her as conducting or carrying on a business.

When any property falls within a taxable classification the manner of its acquisition, i.e., purchase, gift, inheritance, fiduciary, or as a fiduciary mortgagor in possession, etc., does not affect the taxability of the income derived there from, unless specifically stated otherwise in these Rules and Regulations.

- F. All other net profits of business activities except any portion thereof resulting from items not taxed under the provisions of the Resolution and Ordinances as set forth in Section 205 hereof.

In the calculations utilized to determine the correct net profits, the following items are to be included as they shall be considered to be a part of the business income:

1. Interest received on credit sales.
2. Discounts received from Pennsylvania for timely remitting of sales tax.
3. Damages/awards settlements received, except for personal injuries cases. Both punitive and compensatory damages received in personal injury actions are excluded when physical sickness or injury has occurred. Punitive damages awarded on a personal injury claim where no physical sickness or injury has occurred, such as awards made in defamation actions, are taxable income for determining correct net profits.

- G. In determining net profits subject to tax under the provisions of the Resolutions and Ordinances, the net profit of each business activity is to be determined separately with reference only to the gross income and expenses of that business

and without mixing the income of one activity with the expenses of another. Persons engaged in more than one business activity during the tax year may not offset a loss in one activity against the gain in another. The tax is imposed on the net profit of each business of the nature, may not be deducted from the net profit of any other business activity. (Aronson vs. City of Pittsburgh; 485A 2nd 890; Pa. CMWLTH. Court, 1985).

- H. Each resident partner or member of a non-resident partnership, association or other entity must pay the tax on his or her share of the net profits whether or not it is actually distributed to him or her.
- I. Recapture under I.R.C. Sections 179 and 280F(b)(2). When the business use of a business asset drops to 50% or less, the asset is subject to recapture under these I.R.C. sections. The amount of recapture is subject to the Net Profits tax. (See instructions to Federal Form 4794 for additional information.)
- J. Hobby Losses. The "hobby loss" rule of IRC Section 183 limits the deductions of individuals and certain other taxpayers from activities that are not engaged in for profit. In effect, for Federal purposes, a taxpayer may deduct expenses subject to IRC Section 183 only to the extent of the taxpayer has gross income from the activity during the taxable year.

SECTION 205. NONTAXABLE INCOME

The items listed and described within Section 205 are not utilized as deductions against income (except paragraph R), as they are a list of nontaxable income sources. The following are not considered to be earned income or net profits and are not subject to tax:

- A. Sickness, disability, or retirement benefit paid, except regular wages as provided in Section 203 (M).
- B. Benefits paid under any public assistance, unemployment or worker's compensation legislation, including supplemental unemployment benefits (SUB pay), or strike pay.
- C. Compensation or bonuses paid by a State or the United States for active military service in the Armed Forces.
- D. Death benefit payments to any employee's beneficiary or estate, whether payable in a lump sum or otherwise.
- E. Proceeds of life insurance policies, or annuities.
- F. Cash or property received as a gift, by will, or by statutes of descent and distribution.
- G. Interest and dividends: All forms of interest, i.e., on obligations of the United States or its possessions, the Commonwealth of Pennsylvania, or any political subdivision thereof, or on any bank or postal savings accounts, mortgages, or loans, received by an individual, except interest correctly reportable on:
 - 1. The Commonwealth of Pennsylvania Department of Revenue Form PA 40R "Gross Compensation" line.

2. On the "Wages, Salaries, Tips, Etc." line of the I.R.C. Form 1040.
3. Or the "State Wages, Tips, Etc." line of I.R.C. Form W-2.
4. The interest correctly reportable as earned income on Pennsylvania PA-40, Schedules C, E, F and RK-1.

All forms of dividends received by a person, except those amounts correctly reportable on the Commonwealth of Pennsylvania Department of Revenue Form PA 40R "Gross Compensation" line, on the "Wages, Salaries, Tips, Etc." line of the I.R.C. Form 1040, or the "State Wages, Tips, Etc." line of the IRC Form W-2.

- H. Rents derived from mere "passive" or "investment" ownership or subleasing of real estate without the furnishing by the lessor of services to the leased premises or to the lessee other than gas, electricity, water, sewage, and heat. (Such rents are considered to be the return solely from invested capital and not profits from the operation of a business activity taxed by the Resolution and Ordinances).
- I. Value of meals and lodging furnished by employers to domestics or other employees for the convenience of the employer on the employer's premises. However, when board or lodging is provided by the employer and the employee is not required to reside on the premises by his or her employer, the fair market value of the board or lodging shall be included in the employee's earnings as it shall be taxable.
- J. Capital gains as reported on Federal Form 1040, Schedule D, except when Capital Gains include any amount correctly reportable on the Commonwealth of Pennsylvania Department of Revenue Form PA 40R "Gross Compensation" line on the "Wages, Salaries, Tips, Etc." line of the I.R.C. Form 1040, or the "State Wages, Tips, Etc." line of I.R.C.
- K. Social Security benefits.
- L. Veterans administration allotments for subsistence or disability.
- M. Income from pensions or old age and retirement benefit plans upon retirement.
- N. Active duty military service pay.
- O. Lottery winnings.
- P. I.R.A. pension payments received upon retirement.
- Q. Profits from limited partnerships engaged in real estate, oil, gas, mining leases or other similar passive investments.
- R. A net loss on a self-employment business schedule may be deducted from that individual's earned income, but not against net profits.
- S. Distributions from deferred compensation plans to the extent that such distributions represent a return of the taxpayer's own contribution upon which he

originally paid the tax.

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

SECTION 206. RESIDENT TAXATION

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

SECTION 207. NONRESIDENT TAXATION

The entire earned income and net profits received and/or earned within the Taxing District by a nonresident of the Taxing District, who is not required to pay a similar tax elsewhere, is subject to taxation at a rate of .5% by the Borough of Forest City.

See also Section 211.

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

SECTION 208. CREDITS

Earned income or net profits tax paid for the concurrent time period to another state or political subdivision will be allowed as a credit from the liability of taxpayers for tax imposed under the provisions of the Resolutions and Ordinances. Such credit will be allowed up to the maximum effective rate of the tax levied by the applicable Municipality and/or School District for whom this office is the collector, provided this same credit has not already been applied toward the taxpayer's liability for the Pennsylvania Personal

Income Tax for the same period. Evidence of the amount of gross earnings and payments of the applicable tax on earned income of net profits to another state or political subdivision for the concurrent time period is required before such credit is allowed.

Examples:

- (1) Taxpayer G, a RESIDENT within our jurisdiction, who works in Philadelphia and pays Philadelphia earned income tax, is entitled to a credit of up to 1% of EARNED INCOME toward his/her local earned income tax liability.
- (2) Taxpayer H, a RESIDENT within our jurisdiction, works full time in City A, Delaware, which exacts a 1.3% tax on his/her earnings in that city. Taxpayer H may take credit against his local earned income tax liability for up to 1% of city A's income tax that he paid.
- (3) Taxpayer I, a resident within the school district's jurisdiction works in New York State and earns \$40,000. Taxpayer I participates in his/her employer's 401(k) plan deferring tax on \$5,000 of his earnings. The correct calculation of taxpayer I's local tax liability is as follows:

- (a) Determine the earned income tax liability.
- (b) Determine the amount of income that is being taxed in both states.

New York State Wages	\$35,000
Pennsylvania State Wages	<u>\$40,000</u>
Amount taxed in both states	\$35,000
- (c) Determine the maximum credit allowed. Amount from step (b) X tax rate.

$$\text{Maximum credit } \$35,000 \times 1\% = \$350$$

- (d) Determine the out-of-state credit and the portion claimed on the Pennsylvania Return,

Tax paid to New York State on \$35,000 (from the taxpayer's New York Tax Return)	\$1,970
Less the credit claimed on the Pennsylvania State Tax Return	<u>\$1,120</u>
Unused Credit	\$850

- (e) The credit allowed is the lesser of the amounts in (c) or (d):

(c) Maximum credit allowed \$ 350

(d) Unused Credit 850

Allowable credit for this example is \$350.

(f) Income Tax Liability \$ 400

Maximum Credit (350)

Balance Due \$ 50

- (4) Taxpayer J, a RESIDENT within our jurisdiction, is a partner in a national C.P.A. firm with offices in our jurisdiction, plus Chicago, New York City and New Orleans. Taxpayer J pays taxes on income earned in each of these cities. Taxpayer J may take credit toward the Tax using the following method:

(a) Determine the income earned in each locality in that tax year.

\$10,000 in Chicago
5,000 in New York City
15,000 in New Orleans
50,000 in Our District
\$80,000 gross income - all taxable locally

(b) Determine the maximum credit that can be taken for taxes paid to other localities.

\$10,000 x 1% = \$100.00
5,000 x 1% = 50.00
15,000 x 1% = 150.00
300.00 maximum credit that can be applied
to the Tax.

(c) List the amount of Tax paid to each locality.

\$400 to Chicago
200 to New York City
600 to New Orleans
\$ 1,200 Total tax paid to other jurisdictions

(d) Subtract from the total the credit taken on the Pennsylvania State Return (PA 40).

\$ 1,200 total paid to other jurisdictions
735 credit taken on PA 40
\$ 465 credit remaining

(e) The maximum credit that can be applied to the Tax is \$300 (see above step

b). This can be entered on our tax return on the credit for tax paid to other states line. If the credit remaining after step d had been less than \$300, then that amount would be allowed as a credit against the tax.

Residents who take credit for taxes paid in other jurisdictions shall provide the Tax Office with an exact duplicate copy of the tax return as filed with other jurisdictions, along with an exact duplicate copy of their Commonwealth of Pennsylvania Individual Income Tax Return (PA 40) plus any additional documentation requested by Tax Office personnel.

SECTION 209. EMPLOYEE BUSINESS EXPENSES

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

1. Ordinary, customary and accepted in the industry or occupation in which the taxpayer works; and
2. Actually paid while performing the duties of the taxpayer's employment; and
3. Reasonable in amount and not excessive; and
4. Necessary (required by the employer) to enable the taxpayer to properly perform the duties of his or her employment; and
5. Directly related to performing the duties of the taxpayer's present occupation or employment.

Those expenses not meeting the "five part test" are not allowed as a deduction from earned income. The taxpayer has the burden of proving that any expense claimed is ordinary, actual, reasonable, necessary and directly related to the performance of the duties of the taxpayer's occupation or employment, and must maintain adequate and sufficient records to substantiate any such deduction taken during the taxable year. A Taxpayer's personal expenses are never deductible.

Business expenses as documented on Pennsylvania UE are permitted.

Should the taxpayer omit the required expense deduction forms or if the expense deduction forms are not fully completed, the expense deduction shall be systematically disallowed and denied without notification to the taxpayer.

SECTION 210. BUSINESS LOSSES

- A. Taxpayers are not allowed to offset a gain in one business activity against a loss in another business activity. Losses may be applied only in the year in which the loss was actually incurred, and may not be carried over to subsequent years. One person's losses may not be deducted from his or her spouse's earnings. Pennsylvania S Corporation losses may not offset earned income or net profits for any taxpayer.
- B. If the gross income for 3 of the last 5 taxable years exceeds the deductions attributable to such activity, then, such activity shall be presumed to be an activity engaged in for profit.
- C. Continuing business losses beyond the three years mentioned above will only be allowed if the taxpayer establishes, to the Tax Office, that the business activity is engaged in for profit.

SECTION 211. ALLOCATION OF EARNED INCOME TAX AND NET PROFITS TAX FOR NONRESIDENTS.

- A. Earned income allocation: Apportionment of earned income tax to a nonresident's earnings generated from full time employment within one of our municipalities which taxes nonresidents.

Generally - A nonresident working in one or more of our municipalities which taxes nonresidents is subject to a 1% tax on all earnings for work done or services performed or rendered in such municipality pursuant to the following conditions:

- 1. Where the borough, city, township or school district of which the employee is a resident imposes and collects a tax of 1% on earned income, the earnings of such employee are not taxable by this office.
 - 2. Where the borough, city, township or school district of which the employee is a resident imposes and collects a tax of less than 1% on earned income, the earnings of such employee are taxable at a rate which equals the difference between 1% and the rate of the tax imposed and collected by the political subdivision of which the employee is a resident, not to exceed .5%.
 - 3. Nonresidents working full time in one or more of our municipalities which taxes nonresidents, by virtue of a contract of employment, on a 5 day week basis (Monday through Friday), he or she may not, in computing the tax due, exclude from earnings, compensation for days for which he or she is compensated but not required to work (i.e., Saturdays, Sundays vacations, holidays, etc.)
- B. Nonresidents working part time in a municipality within our jurisdiction, which taxes nonresidents:

1. Where a nonresident receives compensation for work done or for services rendered or performed partly within and partly outside said municipality, the tax shall attach to that portion of the compensation which is earned within said municipality in accordance with the rules of apportionment or allocation set forth in paragraphs 2, 3, 4, 5, 6 & 7 which immediately follow.
2. If the nonresident is paid on a straight salary or wage basis, the tax shall be based on that portion of his or her compensation which the total number of working days employed within the municipality bears to the total number of working days employed within and outside of said municipality.
3. If the nonresident is paid commissions, based on the volume of business transacted, the tax is computed on that portion of their entire commissions which the volume of business transacted by the employee within the municipality bears to the volume of business transacted by him or her both within and outside of the municipality. The place of solicitation shall generally determine whether the business transacted was within or outside of the municipality.
4. If the employee receives both salary and commissions, the tax shall be allocated on the basis of working days and volume of business transacted in accordance with paragraphs 2 and 3 immediately above.
5. The occasional entry into the municipality by a nonresident employee (who performs the duties for which he or she is employed entirely outside the municipality, but who enters the municipality for the purpose of reporting, receiving instructions, etc. incidental to his or her duties outside the municipality), and nonresidents engaged as performers, participants or otherwise, in traveling troupes, sports teams, shows, demonstrations or exhibits originating elsewhere shall not be deemed to take such employee out of the class of those rendering services entirely outside the municipality.
6. The claim for an apportionment or allocation shall be supported by a written statement, signed by the employer setting forth the date or dates the employee was assigned outside of the municipality. Whenever the Tax Office shall determine, either upon its own initiative or upon application by the taxpayer, that an apportionment is appropriate for a particular taxpayer, a class of taxpayer, or for the Municipality or Tax Office, he or she may provide for a method of apportionment with due regard to the nature of the business concerned.
7. Where it is impractical to apportion or allocate the compensation at the end of each month, the apportionment or allocation may be made at the end of the year and the tax adjusted accordingly.

C. Allocation of net profits of nonresidents:

1. **Where the entire business is transacted in the municipality.** A nonresident individual conducting any business, trade, profession, or other activity is subject to the tax on the entire net profits thereof if the entire business is conducted or carried on in the municipality.
2. **Where the sole store or office is in the municipality.** A nonresident who maintains his or her sole store or office in the municipality and transacts business both within and outside of the municipality is not entitled to an allocation on his or her net profits. The business status, in such instances, is considered transacted as flowing through the municipality store or office. Example: A nonresident surgeon, who maintains an office in the municipality and none outside of the municipality, would not be permitted to allocate the tax as to fees received for surgery actually performed outside of the municipality. The same example applies to a nonresident attorney who maintains his or her sole office in the municipality.
3. **When a nonresident is entitled to an allocation of net profits.** A nonresident, who, in addition to having a place of business or office outside of the municipality also maintains a branch office or store and transacts business both within and outside of the municipality, shall be entitled to an allocation of his or her net profits.
4. If the nonresident referenced in 3 above claims an allocation on the basis of a branch office or store outside of the municipality, he or she must prove to the administrator that it is an established, self-sustaining, bona fide branch office or store.
5. **Special Allocation Formula.** Where it is impossible to allocate with certainty the net profits subject to the tax by reason of the absence of an office or store within the municipality, or because the taxpayer's records do not disclose the actual net profits where he or she does have a branch in the municipality, or for any other reason the officer, upon request, may permit the use of the allocation formula to effect a fair and proper apportionment so that only a portion of the net profits attributable to the municipality is included in the measure of the tax. These factors are:
 - (a.) **Real and Tangible Personal Property Factor:** The taxpayer computes a percentage on the basis of a fraction using the total average book value of all such property located in the municipality as the numerator, and the total average book value of all such property located within and outside of the municipality as the denominator.
 - (b.) **Wages and Salaries Factor:** A percentage is computed on the basis of a fraction using the total amount of wages and salaries

paid to employees who work in, or from, or are attached to places of business located in the municipality as the numerator, and the total amount of wages and salaries paid to all employees within and outside the municipality as the denominator.

(c.) **Gross Receipts Factor:** A percentage is computed on the basis of a fraction using as the numerator gross receipts from sales or services within the municipality, as the denominator all gross receipts from sales or services made within and outside of the municipality.

(d.) **Averaging:** The percentages obtained for the three factors described above, are to be added together and the total thereof divided by three (3) to obtain the average of the three percentages. If the numerator and the denominator of any fraction are both zero, the factor is deemed to be nonexistent and shall be omitted in calculating the average of the percentages.

Example:

(a) Average Real and Tangible Property

In the Municipality.....\$25,000 = 25%

Average Real and Tangible Property

Within and Outside of the Municipality.....\$100,000

(b) Wages and Salaries in the Municipality.....\$10,000 = 20%

Wages and Salaries in and outside the Municipality..\$50,000

(c) Gross Receipts in the Municipality.....\$75,000 = 25%

Gross Receipts in and outside the Municipality..\$300,000

Total of Percentages 70%

Average of Percentages

(Total of Percentages Divided by 3) 23 1/3%

ARTICLE III - COLLECTION AT THE SOURCE

SECTION 301. EMPLOYERS REQUIRED TO WITHHOLD

A. Every employer having an office, factory, workshop, branch, warehouse or other place of business located within the Taxing District, and who employs one or more persons (other than domestic servants in a private home) for a salary, wage, commission, or other compensation, shall deduct the tax from residents of that district and nonresident employee's wages at the time of

payment thereof.

- B. Fiduciary Status - Employers who withhold earned income tax from employees, and the person responsible for the transmission of earned income tax withheld by a corporate employer, shall be a fiduciary charged with all the responsibilities of a fiduciary with respect to taxes withheld, and shall be subject to all duties imposed by law on fiduciaries, including criminal penalties for breach of duties.
- C. Withholding by employers from clergy and domestic workers.

- 1. Ministers, rabbis and Clergy.

Salaries paid by organized religious bodies to ministers, rabbis, clergy, evangelists or religious workers are taxable. The organized religious body shall withhold the tax upon such salaries and make remittance to the tax office. In addition to the salary actually received, earned income at the time of final settlement should include allowance paid to the taxpayer for housing, utilities, and other reimbursed expenses.

- 2. Domestic Workers

The compensation received by domestics is taxable. The employer may, with the consent of the domestic, withhold the tax.

Where the duties of domestics require them to live at their place of employment, board and lodging shall not be considered as wages or salary earned.

SECTION 302. VOLUNTARY WITHHOLDING

Any employer located outside our Taxing Districts may voluntarily withhold the tax from employees who are residents of our Taxing Districts but who are employed outside the Districts.

SECTION 303. REGISTRATION OF EMPLOYERS

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

enable the Tax Office to carry out its responsibilities.

SECTION 304. LIABILITY OF EMPLOYEE

Failure of any employer to withhold tax shall not relieve the employee from payment of such tax, or from complying with the requirements of the ordinance or resolution or these rules and regulations relating to the filing of declarations and tax return.

ARTICLE IV - PAYMENT OF TAX AND RETURNS

SECTION 401. ANNUAL RETURNS OF TAXPAYERS

- A. On or before April 15 of each year, every person who was a resident in one or more than one of our member Municipalities and School district for all or any portion of the preceding calendar year shall file with the Tax Office an Annual Tax Return showing all earned income and net profits received and/or earned for the previous year. A husband and wife may not file a joint return with this Tax Office. Nonresidents must file a return if they expect to owe any money or expect to receive a refund within one of our member municipalities which levies a tax on nonresidents.
- B. (1) Persons residing in more than one Taxing District as a result of moving during the calendar year must file an Annual Tax Return with the Officer for each District in which they resided during the year.
- (2) The Tax Office has the authority to request and receive or view a pay stub or letter from the taxpayer's employer or employers for the applicable period of time relevant to the tax filing period. The pay stub or letter from the employer should indicate the gross earnings and earned income tax withheld for each period and taxing authority. To facilitate tax return processing this information must accompany each tax return when it is received. Alternatively, the taxpayer's net profits and/or earned income for the year may be divided by 12 and multiplied by the number of months appropriate for each taxing jurisdiction.
- C. If a person has no earned income to report, the word "none" shall be entered on the Annual Tax Return, and the return shall be signed, dated, and returned to the Tax Office with an explanation (military service, retired, disability income only, etc.).
- D. If net profits are received, the type of business, profession, or activity shall be indicated on the Annual Tax Return and the amount of the profits shall be shown on the appropriate line(s) of the Return. If a net loss is incurred in the operation of a business activity, it may not be offset against the net profit of other business activities. Losses shall be indicated as zero in all calculations involving net profits on the Annual Tax Return. Copies of the appropriate Pennsylvania Income Tax Schedules C, F, or RK-1 shall be attached to the Annual Tax Return to substantiate profits and/or losses indicated.

- E. When a Return is made for a fiscal year the Return shall be filed within one hundred and five (105) days from the end of said fiscal year.
- F. The Annual Tax Return shall also show the taxpayer's name, Social Security number, address, the amounts of tax due, the amount of any credit claimed for tax withheld by an employer (with a copy of the Earnings and Tax Statement) or prepaid to this Tax Office and such other information as may be indicated on the Return form or as may be required by the Tax Officer. Every person subject to the tax shall file such return regardless of the fact that his or her wages may have been subject to withholding of the tax by his or her employer and regardless of whether or not tax is due.
- G. At the time of filing the Annual Return, the taxpayer shall pay any tax due. Total balances of less than \$1.00 need not be paid. Refunds of less than \$5.00 will not be made but credit will be given to the succeeding year.
- H. Tax Returns must be signed and dated by the taxpayer in the space provided.
- I. Remittance shall be made payable to Earned Income Tax Office.
- J. Third party checks in payment of the tax due may be refused by the Tax Office.

SECTION 402. QUARTERLY PAYMENT

- A. Estimated Taxes - Every resident of the school district who expects to receive any earned income, exceeding \$8,000, not subject to withholding and/or net profits from any business activity must file and pay quarterly estimates of income tax due if the tax for the year is expected to exceed 1 % of total income not subject to withholding.
- B. Farmers - Individuals, who meet the Internal Revenue Service definition of "farmer", are exempt from paying quarterly taxes on the farm income, if the individual files and pays his tax by March 1st of the succeeding year.
- C. Estimated taxes for individuals having earned income not subject to withholding will be due the same as the federal estimated tax due dates which are April 15, June 15, September 15 and January 15.
- D. An additional penalty of 8% of total tax due will be imposed and collected, in addition to the fines and penalties referenced in Section 506 of these Rules and Regulations, per failure to comply with the filing requirements.
- E. A husband and wife shall not file a joint declaration using one social security number. If one payment is made for multiple persons, the amount of tax to be applied to each person identified by their correct social security number is required.

SECTION 403. RETURNS OF EMPLOYERS AND PAYMENT OF WITHHELD

TAX

- A. Every employer required to withhold the tax shall file a quarterly return on a form prescribed or approved by the Officer. This return will list the name, social security number, address, municipality of residence, gross earnings and amount of tax withheld for each employee, and shall remit the total sum thereof to the Income Tax Office on the dates specified.

Quarter	Employer's Quarterly return and payment due on or before:
Jan., Feb., March	April 30
April, May, June	July 31
July, Aug., Sep.	October 31
Oct., Nov., Dec.	January 31

- B. Employers may utilize computer printouts or similar listings to transmit quarterly and/or annual employee withholding data provided the required information is furnished in a manner acceptable to the Officer.
- C. Every employer who discontinues business prior to the completion of the tax year, shall, within thirty (30) days after discontinuance of business, file and furnish the returns required by this section covering periods between the last such returns and date of discontinuing business and transmit to the Officer all tax remaining due.
- D. Local earned income taxes withheld from employee wages by an employer or business entity or a corporation must be held in trust for the taxing authority and its tax collector, in the event of a bankruptcy, these withheld tax funds shall not be the "property of the bankrupt estate"
- E. (1) Trustee ex maleficio: One who collects the earned income tax as agent for a taxing authority or the taxing authority's tax collector and fails to pay same over to the appointed collector for the taxing authority is a trustee ex maleficio.
- (2) Businesses and Corporations must act through individuals and where such individuals are the acting and controlling officers and agents of the corporation of business, and they fail to administer the trust responsibilities, those responsibilities are imposed upon the individuals who are responsible for the performance of the trust duty.
- F. The employer, the business, or the corporation shall not characterize the tax withheld simply as creating a debtor/creditor relationship between the employer or business or corporation and this Tax Office as collector for the taxing authority. The real debt is the employees' tax liability to the taxing authority, therefore the employer is the conduit for its employees' tax payments. Consequently, these

taxes withheld are held in express trust or in constructive trust for the taxing authority and its collector of these taxes.

SECTION 404. FISCAL YEARS:

- A. Normally taxpayers shall use the calendar year method for reporting and paying the tax.
- B. A taxpayer, by filing with the Tax Office his or her written election to do so, may make returns and pay tax on the same fiscal year basis used for Federal Income Tax purposes. (Refer to Section 401 E.)

SECTION 405. CASH OR ACCRUAL BASIS:

- A. A taxpayer may report income on either the cash or accrual basis as those terms are used for Federal Income Tax purposes. The basis used by the taxpayer shall be the same as used by the taxpayer for Federal Income Tax purposes.
- B. Illustrations of computations of Net Profits - An amplification of the definition contained in section 405, but not limited to thereof the following additional information and requirements for the determination of net business profits are furnished.

(1) **Cash Basis Method** - A taxpayer employing the *Cash* basis of accounting includes in gross income all income subject to tax received during the year in cash or its equivalent. He or she deducts all disbursements made during the year in cash or its equivalent, provided deduction for such expenditures is authorized by law.

(2) The use of the *cash basis* is mandatory where no book or records of account are maintained.

(3) Items of income and expenditure which, as gross income and deduction, are elements in computing taxable income need not necessarily be in the form of cash. It is sufficient that such items, if otherwise properly included in the computation, can be valued in terms of money.

Example: A taxpayer on the *cash basis* received shares of stock in payment of services. Assuming that the stock has a fair market value, the taxpayer has received the equivalent of cash to the extent of its value and that amount must be included as income.

(4) If the return is made on a *cash basis*, gross profit shall include receipts from commissions and fees, as well as the gross profit or loss from sales of merchandise, goods, wares, and services.

(5) **Accrual Basis** - If income is taken into consideration when earned, even though not received in cash, and expenses are considered as soon as

incurred, whether paid or not, the system of accounting is said to be on the *accrual basis*. These are the basic rules: (1) the right to receive an item of income (as distinguished from actual receipt) determines its inclusion in gross income under the accrual method; and (2) a deduction cannot be accrued until an actual liability is incurred.

Example: In September of last year a contractor performed work for a customer. Payment for the work was not received until this year. If the taxpayer reports on the *accrual basis*, the income will be included in last year's return (when earned). If the taxpayer reports on the *cash basis*, the payment will be included in this year's return (when received).

- C. A taxpayer engaged in more than one business, may, in computing taxable income, use a different method for each trade or business.
- D. Methods of Accounting must clearly reflect income. No method of accounting is allowed unless it clearly reflects income. Thus, even if the taxpayer's accounts are kept and the return made on a *cash basis*, unusual cases may arise in which a payment made during the year is not deductible.

Example: Commission, fees and costs paid in one year by a taxpayer in securing a loan for ten or fifteen years covered by a mortgage on property to be leased are not deductible in full in the year of payment but should be spread over the period of the loan, even though the taxpayer's accounts are kept and the return made on the *cash basis*.

SECTION 406. PENALTY AND INTEREST

If for any reason the tax is not paid when due, interest at the rate on six percent (.06) per annum on the amount of said tax, and an additional penalty of one-half of one percent (.005) 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 recovery of any such tax, the person liable therefore shall, in addition, be liable for the cost of collection and interest and penalties herein imposed.

SECTION 407. EXTENSIONS

A taxpayer who files an extension of time in which to file the Federal or Pennsylvania Tax Return shall automatically be entitled to a similar extension of time for filing the local return. A copy of the taxpayer's Federal or Pennsylvania extension form must be attached to the Local tax return when filed.

Interest at the rate of six percent (.06) per annum must be paid even though an extension of time for filing is granted.

SECTION 408. CHANGE IN FEDERAL OR PENNSYLVANIA TAXABLE INCOME

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

ARTICLE V - ADMINISTRATION AND ENFORCEMENT

SECTION 501. INCOME TAX OFFICER

A. The Officer is charged with the administration and enforcement of the Ordinances and Resolutions and these Rules and Regulations, and is authorized to act on behalf of the member Municipalities and School District in such administrative and enforcement matters. .

B. The Income Tax Office shall keep a record showing the amount received be it from each person paying the tax and, if paid by such person in respect of another person, the name of such other person, and the date of such receipt for 7 years.

SECTION 502. REQUESTS FOR RULINGS

Any taxpayer or employer or tax preparer desiring a specific ruling concerning the Resolutions and Ordinances or these Rules and Regulations shall submit all relevant facts in writing to the Income Tax Officer who shall issue a written ruling.

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

A. The Officer and agents or staff members of the Tax Office designated in writing by the Officer are authorized to examine the books, papers and records of any taxpayer or supposed taxpayer or of any employer or supposed employer in order to verify the accuracy of any return; or, if no return was filed, to ascertain the tax due, if any. Every taxpayer or supposed taxpayer and every employer or supposed employer is required to give the Income Tax Officer (or any agent or staff member so designated by him) the means, facilities and opportunity for such examinations and investigations and investigations as are authorized. In addition to all other powers, the Administrator and staff shall have the power, on behalf of the taxing jurisdictions to examine any person under oath concerning salaries, wages, commissions, an other compensation returned, or which should have been returned for taxation hereunder; to compel the production of books, papers and records, and the attendance of persons (whether as parties, principals, agents or

witnesses) before him.

- B. Information obtained by the Tax Officer or any other official, staff member or agent of the Tax Office as a result of any return, examination, investigation, hearing, or verification required or authorized, is confidential and may not be disclosed to any person, except for official use in connection with administration or enforcement of the Resolutions and Ordinances, or as otherwise provided by law.

SECTION 504. RECORDS TO BE KEPT BY TAXPAYERS AND EMPLOYERS

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

SECTION 505. REFUNDS

A completed Annual Tax Return must be filed and be processed before a request for refund can be considered. Depending upon the nature of the refund, additional documentation to substantiate the request may be required by the Tax Office. Refund requests will not be processed until the necessary documentation is provided. Requests for refund will be considered based upon the relevant facts and circumstances pertinent to each case.

SECTION 506. FINES AND PENALTIES FOR VIOLATIONS

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

- A. Revelation for unauthorized purposes by any Tax Office employee or any official or employee of any former or present member districts of any confidential information acquired as a result of the operation of the Resolutions and Ordinances of these Rules and Regulations.
- B. Failure, neglect, or refusal on the part of any person, any partner of a partnership or any officer of a corporation or association to file any report or return, or to pay, deduct from wages, or transmit any tax, penalty or interest required of such person, partnership, corporation or association.
- C. Failure, neglect or refusal to maintain or to reveal to the Tax Office or its authorized representative, books, records, or papers relevant to the tax imposed hereunder.

- D. Knowingly making any incomplete, false or fraudulent report or return or attempting to do any other thing to avoid payment of the tax in whole or in part.
- E. All taxes, fines, and penalties imposed by these Resolutions and Ordinances shall be paid to the Earned Income Tax Office.

SECTION 507. CONCURRENT REMEDIES

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

SECTION 508. FAILURE TO RECEIVE FORMS

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

SECTION 509. SPOUSE'S SOCIAL SECURITY NUMBER:

Taxpayers shall provide the social security number of their spouse in the space provided on the annual tax return form.

SECTION 510. RETURN COMPLETION - GENERAL:

- A. Each taxpayer shall account for all 12 months of the calendar year as to their place of domicile and the months in each place and also provide the name of each Borough or Township in which they lived during the calendar year.
- B. Figures may be rounded to the nearest whole dollar on the tax return form.
- C. All appropriate schedules, W-2 forms and 1099 forms shall be enclosed with the tax return when received. Tax returns shall be considered as incomplete without the appropriate schedules, W-2 forms and 1099 forms.
- D. Tax returns received without the applicable tax and penalty and interest shall be considered as being an incomplete filing as the return cannot be processed without complete payment.
- E. Taxpayers with earnings in another State and having paid tax on earnings they must provide a copy of the State tax return for that State, plus their Pennsylvania personal income tax return.
- F. Estimates of income and/or expenses by the taxpayer are not acceptable unless accepted by the Income Tax Officer.

- G. Should the taxpayer omit the required expense deduction forms or if the expense deduction forms are not fully completed, the expense deductions shall be disallowed and shall be systematically denied without notification to the taxpayer.
- H. Taxpayers may not submit Federal Schedule SE in lieu of Pennsylvania 40 schedules C, E, & F to this office.
- I. Taxpayers may not submit Federal Schedule E form in lieu of submitting their applicable K-1 form. Failure to submit the completed K-1 form shall result in the rejection and return of the taxpayer's forms as an incomplete or fraudulent filing.
- J. The tax Office may acquire and utilize the Pennsylvania Department of Revenue, Individual Income Tax information regarding earned income and net profits for audit and compliance purposes.
- K. Signing of returns and other Documents:
 - a. (1) Any tax return form, statement, schedule or other document required to be made and/or submitted to this Office pursuant of P.C. 1257, No. 511 of 1965 as amended, and these Rules and Regulations, or when requested by the Income Tax Officer, shall be signed by the taxpayer when the tax return form, statement, schedule or other document is filed.
 - b. Any tax return form, declaration, statement, schedule or other document required as per P.C. 1257, No. 511 of 1965, as amended, or by these Rules and Regulations for a partnership shall be signed by one of the partners. The fact that a partner's name is signed to a return, declaration, statement, schedule or other document, shall be prima facie evidence for all purposes that such partner is authorized to sign on behalf of the partnership.
 - c. The making or filing of any tax return form, declaration, statement, schedule or other document pursuant to P.C. 1257, No. 511 of 1965, as amended, or by these Rules and Regulations, shall constitute a certification by the person making or filing such tax return form, declaration, statement, schedule or other document or copy thereof, that the statements and information therein are true and correct and that any copy filed is a true copy.
 - d. Any unsigned tax return form received at the Tax Office shall be considered incomplete and unacceptable until it is properly signed.

SECTION 511. WHO MUST FILE?

- A. Each resident of our participating Municipalities and School District, must file a tax return.
- B. Taxpayers who are retired or permanently disabled and have no taxable income may

be coded on the Tax Office's files so as not to receive a tax form. The taxpayer must notify the Tax Office in writing and also provide the effective date of retirement or permanent disability.

- C. Taxpayers on active military duty must file a tax return for the year in which they first entered the military on active duty and inform the Tax Office of their active duty military status.
- D. A taxpayer with earned income must file a tax return if he or she was a college student when the place of legal domicile is or was within our participating Municipalities and School District.
- E. Taxpayers who had the earned income tax withheld by their employer are not exempt from filing a properly completed tax return.
- F. Partial year residents and out of state residents must file for the applicable portion of the calendar year they lived or worked in one of our participating Municipalities and/or School District.

SECTION 512. REGISTRATION OF TAXPAYERS:

Every resident of a taxing jurisdiction who received, or anticipates that he or she will receive taxable earned income or net profits during the calendar year must register his or her name and residence address, his or her social security number and the name and address of his or her place of employment or business with the Income Tax Office. All residents will thereafter be responsible for reporting changes in their name, place of residence or place of employment or business to the Income Tax Office. In the Districts, which levy the non-resident factor, the above would also apply to these persons. This registration is required to be initiated within fifteen (15) days after becoming a resident or non-resident employee within the Office's jurisdiction.

It shall also be the responsibility of the member Municipalities and School District to provide the full name and address of new residents on a timely basis to this Office.

SECTION 513. WAGE ATTACHMENTS:

The Earned Income Tax Office shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms, or individuals, employing persons owing delinquent earned income taxes, or whose spouse owes delinquent earned income taxes or net profits, or having in possession unpaid commissions or earnings belonging to a person or persons owing delinquent earned income taxes, or whose spouse owes delinquent earned income taxes, upon the presentation of a written notice and demand under oath or affirmation, containing the name of the taxable or the spouse thereof, and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions, or earnings of such individual employees, then owing or that shall within sixty (60) days thereafter become due, or from

any unpaid commissions, or earnings of any such taxable in its or his/her possession, or that shall within sixty (60) days thereafter come into its or his/her possession, a sum sufficient to pay the respective amount of the delinquent earned income taxes or net profits, and costs shown upon the written notice or demand, and to pay the same to the Earned Income Tax Office within sixty (60) days after such notice shall have been given. Such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the monies collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding two (2%) per cent of the amount on money so collected and paid over to the Earned Income Tax Office. Upon the failure of any such corporation, political subdivision, association, company, firm or individual to deduct the amount of such taxes or to pay the same over to the Earned Income Tax Office, less the cost of bookkeeping involved in such transaction, or herein provided, within the time hereby required, such corporation, political subdivision, association, company, firm or individual shall forfeit and pay the amount of such tax for each such taxable whose taxes were not withheld and paid over, or that are withheld and not paid over together with a penalty of ten (10%) per cent added thereto, to be recovered by an action of assumption in a suit to be instituted by the Earned Income Tax Office or by the proper authorities of the taxing district, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law.

Wage Attachments will also incur a charge of \$20.00

SECTION 514. BAD CHECKS:

A \$30.00 penalty will be levied if a check is returned, unpaid by the bank, plus the issuer/maker may have a criminal complaint court action tiled against him/her.

SECTION 515. CHANGES IN ACT 511 BY THE PENNSYLVANIA GENERAL ASSEMBLY:

Should Act 511 language be amended by the Pennsylvania General assembly, the amended language shall be incorporated into these Rules and Regulations.

SECTION 516. ASSESSMENT AND COLLECTION OF UNDERPAYMENT OF TAX

A. If, as the result of research or investigation conducted by or on behalf of the Earned Income Tax Officer, a declaration or return is found or is reasonably believed to be incorrect, the Officer is authorized to assess and collect any underpayment of Taxes withheld at the source, or any underpayment of Tax owed by any taxpayer with respect to earnings or net profits or both. If no declaration or return has been filed and a Tax is found or determined to be due, the Tax actually due may be assessed and collected with or without the formality of obtaining a delinquent declaration or return from the taxpayer.

B. Hearings/ Meetings:

Any person aggrieved by an assessment made by the Officer may, within thirty (30) days after receipt of notice of the assessment, appeal the assessment by forwarding a letter to the Officer stating in detail why the taxpayer believes the assessment to be incorrect and including documentation to support the appellant's position. A meeting or hearing will be arranged within thirty days of the receipt of the appeal notice. The appeal meeting or hearing may be recorded at the decision of the Officer. A decision on the appeal shall be rendered by the Officer within thirty (30) days of the close of the meeting or hearing. The person aggrieved may also properly file all applicable returns and provide all needed supporting documentation if this was not previously done by the aggrieved person. This may also permit promptly amending the assessment to the satisfaction of both parties.

SECTION 517. PAID UNDER PROTEST

Check endorsement shall not qualify as a refund claim. The words "Paid Under Protest" handwritten, typed or otherwise placed on a taxpayer's check or money order, or the check or money order of an employer, shall not qualify as a refund claim as the words are not sufficient to apprise the Officer's personnel of the taxpayer's intent to seek a refund or of the substance of their claim, or of facts sufficient to permit the Tax Office to undertake an investigation of the person's claim.

SECTION 518. DELINQUENT TAX COLLECTION COSTS

All taxable income, from January 1 through December 31 of current year, must be reported. You must file before April 15. The U.S. Postal Service postmark date on your envelope is proof of timely filing. A late filing will result in delinquent costs of \$10.00 (per taxpayer) and must be added to all returns and reports that are filed after the due date of the return or report.

SECTION 519. INDEBTEDNESS AND PRIORITY CLAIMS

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

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

SECTION 520. TAXPAYER REQUESTS FOR COPIES

Written requests, for copies of tax returns, must be signed by the taxpayer whose tax information appears on the tax return.

SECTION 521. SEVERABILITY

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision of this Ordinance shall be determined to be illegal or invalid by any court of competent jurisdiction, such decision shall not impair or affect the remaining terms, sections and clauses of this Ordinance.

SECTION 522. EFFECTIVE DATE

This Ordinance shall be effective upon endorsement by Council and approved by the Mayor.

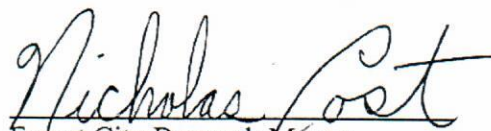
SECTION 523. Any Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

ORDAINED AND ENACTED this 5th day of November, 2007.


Forest City Borough Secretary


Forest City Borough Council President

The foregoing Ordinance is approved on the 5th day of November, 2007.


Forest City Borough Mayor