

Chapter 24

Taxation; Special

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Part 1**Realty Transfer Tax****§24-101. Definitions.**

The following words when used in this Part shall have the meanings ascribed to them in this Section:

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

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

Document—any deed, instrument or writing which conveys, transfers, demises, vests, conforms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording in accordance with Act 77 of 1986 or any amendments or reenactments thereof. [Ord. 846]

Real estate -

(1) Any lands, tenements or hereditaments within the Borough, including without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees, and other improvements, immovables or interests which by custom, usage or law pass with a conveyance or land, but excluding permanently attached machinery and equipment in an industrial plant.

(2) A condominium unit.

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

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

(1) Derives 60 percent or more of its annual gross receipts from the ownership or disposition of real estate.

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

Tax Collector—the Tax Collector of the Borough.

Title to real estate -

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

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

Municipality—the Borough of Pitcairn.

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

Value -

(1) In the case of any bonafide sale of real estate at arms length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances thereon existing before the transfer and not assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate; provided, that where such document shall set forth a nominal consideration, the “value” thereof shall be determined from the contract of sale.

(2) In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, an exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate, which shall not be less than the assessment of such property made by the Allegheny County Board of Property Assessment, Appeals and Review.

(3) In the case of an easement or other interest in real estate the value of which is not determinable under subparagraph (1) or (2), the actual monetary worth of such interest.

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

(Ord. 820, 6/17/1987, §1; as amended by Ord. 846, 9/18/1991, §24-101)

§24-102. Imposition of Tax.

1. Under and by virtue of authority contained in the Local Tax Enabling Act, Act 511 of 1965, 53 P.S. §6901 *et seq.*, and Act 77 of 1986, a tax is hereby imposed on the transfer of real estate situate within the Borough of Pitcairn, regardless of where the instruments making the transfer are made, executed or delivered or where the actual settlements on such transfers take place. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording shall be subject to pay a tax of one-half percent of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

2. The tax imposed under subsection .1 above and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965, P.L. 1257, No. 511, as amended, known as the "Local Tax Enabling Act"; provided, that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Borough, pursuant to §1102-D of the Tax Reform Code of 1971, 72 P.S. §8102-D, authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties. [*Ord. 978*]

3. Any tax imposed under subsection .1 that is not paid by the date tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923, P.L. 207, No. 153, 53 P.S. §7101 *et seq.*, as amended, known as the "Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in §806 of the Act of April 9, 1929, P.L. 343, No. 176, 72 P.S. §806, as amended, known as the "Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims. [*Ord. 978*]

(*Ord. 820, 6/17/1987, §2; as amended by Ord. 978, 5/31/2011*)

§24-103. Exempt Parties.

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

(*Ord. 820, 6/17/1987, §3*)

§24-104. Excluded Transactions.

1. The tax imposed by §24-102 of this Part shall not be imposed upon:

A. A transfer to the Commonwealth of Pennsylvania or the Borough or any of their instrumentalities or agencies, by gift, dedication or deed in lieu of condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments provided said reconveyance is made within 1 year from the date of condemnation.

B. A document which the Borough is prohibited from taxing under the

Constitution or statutes of the United States or the Commonwealth of Pennsylvania.

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

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

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

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

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

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

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

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

K. A transfer:

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

(2) From or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part.

Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. In order to exercise any exclusion provided in this Section, the true, full and complete value of the transfer shall be shown on the statement of value. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an

explanation of the reason such document is not subject to tax under this Part.

(*Ord. 820, 6/17/1987, §4*)

§24-105. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

1. Except as otherwise provided in §24-104, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable.

2. For the purposes of this Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(*Ord. 820, 6/17/1987, §5*)

§24-106. Acquired Company.

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change:

A. Does not affect the continuity of the company.

B. Of itself or together with prior changes has the effect of transferring, directly or indirectly, 90 percent or more of the total ownership interest in the company within a period of 3 years.

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

3. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition to the Recorder of Deeds of Allegheny County for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county.

(*Ord. 820, 6/17/1987, §6*)

§24-107. Credits Against Tax.

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

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

3. Where there is a transfer of real estate which is demised by the grantor, a credit for the amount of tax paid at the time of the demise shall be given the grantor

toward the tax due upon the transfer.

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

5. If the tax due upon the transfer is greater than the credit given under this Section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed. [*Ord. 846*]

(*Ord. 820, 6/17/1987, §7; as amended by Ord. 846, 9/18/1991, §24-107*)

§24-108. Extension of Lease.

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

(*Ord. 820, 6/17/1987, §8*)

§24-109. Proceeds of Judicial Sale.

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

(*Ord. 820, 6/17/1987, §9*)

§24-110. Evidence of Payment of Tax.

1. The tax imposed by this Part shall be paid to the Tax Collector. The payment of taxes shall be evidenced by the affixing of a documentary stamp or stamps or a receipt on every document by the person making, executing, delivering or presenting for recording such document. The stamps or the receipt shall be affixed in such a manner that their removal will require the continued application of steam or water. The stamp or receipt affixed to the document shall be cancelled before the document is recorded.

2. The use of documentary license meter impressions or similar indicia of payment in lieu of stamps as required by this Part may be permitted in the discretion of the Borough.

(*Ord. 820, 6/17/1987, §10*)

§24-111. Value of Document.

Where the document does not set forth the true, full and complete value thereof, the value shall be set forth in the statement of value accompanying the document prepared for the purposes of calculating the real estate transfer tax payable to the Borough in accordance with Act 511 of 1965 and Act 77 of 1986, or any amendments or reenactments thereof.

(*Ord. 820, 6/17/1987, §11*)

§24-112. Enforcement and Administration; Authorization to Adopt Rules and Regulations.

The Borough is hereby charged with enforcement of this Part and is authorized and empowered to adopt rules and regulations relating to any matter pertaining to the administration and enforcement of this Part including, but not limited to, the method used in evidencing payment of the tax.

(Ord. 820, 6/17/1987, §12)

§24-113. Suits for Collection of Taxes.

The Borough may sue for the recovery of taxes due and unpaid under this Part.

(Ord. 820, 6/17/1987, §13)

§24-114. Interest and Penalties on Unpaid Taxes.

If for any reason the tax is not paid when due, interest at the rate of 6 percent per year on the amount of said tax and an additional penalty of one-half of 1 percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of the tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

(Ord. 820, 6/17/1987, §14)

§24-115. Payment Under Protest; Refunds.

The Tax Collector is hereby authorized to accept payment under protest of the amount of tax claimed by the Borough in any case where a person disputes the validity or amount of the Borough's claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Tax Collector, the amount of the overpayment shall be refunded to the person who paid under protest.

(Ord. 820, 6/17/1987, §15)

§24-116. Unlawful Acts.

It shall be unlawful for any person to:

A. Accept or present for recording or cause to be accepted or presented for recording any document without the full amount of the tax thereon being duly paid.

B. Fraudulently cut, tear or remove from a document any documentary stamp, receipt or other evidence of payment.

C. Fraudulently affix to any document upon which a tax is imposed by this Part any:

(1) Documentary stamp, receipt or other evidence of payment which has been cut, torn or removed from any other document upon which a tax is imposed by this Part.

(2) Documentary stamp of insufficient value.

(3) Forged or counterfeited stamp or receipt.

(4) Impression of any forged or counterfeited stamp, receipt, die, plate or

other article.

D. Willfully remove or alter the cancellation marks of any documentary stamp or receipt; or restore any documentary stamp or receipt with intent to use or cause the same to be used after it has already been used; or knowingly buy, sell, offer for sale or give away any such altered or restored stamp or receipt to any person for use or knowingly use the same.

E. Knowingly have in his possession any altered or restored documentary stamp or receipt which has been removed from any document upon which a tax is imposed by this Part, provided that the possession of such stamp or receipt shall be prima facie evidence of an intent to violate the provisions of this Section.

F. Knowingly or willfully prepare, keep, sell, offer for sale or have in his possession any forged or counterfeited documentary stamps or receipts.

G. Fail, neglect or refuse to comply with or violate the rules and regulations adopted by the Borough.

(*Ord. 820, 6/17/1987, §17*)

§24-117. Penalties.

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not less than \$100 nor exceeding \$600 and costs and, in default of payment thereof, shall be subject to imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 820, 6/17/1987, §17; as amended by Ord. 846, 9/18/1991, §24-117; and by Ord. 978, 5/31/2011*)

Part 2**Earned Income Tax and Net Profits Tax****§24-201. Incorporation by Reference.**

Act 32 (53 P.S. §6924,101 through 53 P.S. §6924.901) and its definitions, duties, directives, rules, regulations, powers and penalties is hereby adopted by reference as if same had been set forth fully herein.

(Ord. 980, 9/27/2011, §1)

§24-202. Definitions.

The following words and phrases are included herein when used in this Section shall have the meanings given to them in this Section unless the context clearly indicates otherwise:

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

Earned income—the compensation as required to be reported to or as determined by the Department of Revenue under §303^[fn2] of the Act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section. Employee business expenses as reported to or determined by the Department of Revenue under Article III of the Tax Reform Code of 1971 shall constitute allowable deductions in determining earned income. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

Net profits—the net income from the operation of a business, other than a corporation, as required to be reported to or as determined by the Department of Revenue under §303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section.

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

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

Tax collection committee (TCC)—the Southeast Tax Collection Committee established to govern this tax collection district for the purpose of income tax collection.

Tax collection district (TCD)—the Southeast Tax Collection District is

established under §504 of Act 32.

Tax Officer / Tax Collector—the agency engaged to administer and collect earned income taxes for this tax collection district. Unless otherwise specifically provided, for purposes of the obligations of an employer, the term shall mean the Tax Officer for the tax collection district within which the employer is located, or, if an employer maintains workplaces in more than one district, the Tax Officer for each such district with respect to employees principally employed therein.

In addition to the above definitions, this Section incorporates by reference those words, phrases and definitions as listed in Act 32 (53 P.S. §6924.101 through 53 P.S. §6924.901).

(Ord. 980, 9/27/2011, §2)

§24-203. Imposition of Tax.

1. *Resident Tax.* A tax at the rate of 1 percent is hereby levied on all earned income and net profits, as defined by Act 32, on residents of the Borough of Pitcairn.

2. *Nonresident Tax.* A tax at the rate of 1 percent is hereby levied on all earned income and net profits earned by nonresidents for work done or services performed or rendered in the Borough of Pitcairn.

3. All changes shall remain in effect on a calendar year basis without annual reenactment unless the rate of tax is subsequently changed.

(Ord. 980, 9/27/2011, §3)

§24-204. Administration; Powers and Duties of Officer.

The collection and administration of the tax provided for in this Part shall be performed by the Tax Officer appointed by the Tax Collection Committee. Said Tax Officer shall receive compensation for services and expenses as determined by agreement between the ICC and the Tax Officer. The Tax Officer shall have the powers as provided for by the Local Tax Enabling Act.

(Ord. 980, 9/27/2011, §4)

§24-205. Exemptions and Credits.

No exemptions or credits based on age or income, or any other conditions are granted by this Part. Nothing in this Part is intended to preclude or inhibit any credit or exemption imposed by act of law or regulation.

(Ord. 980, 9/27/2011, §5)

§24-206. Effective Date.

This Part shall be effective January 1, 2012. It is the intention of the Borough Council of the Borough of Pitcairn that this Part shall provide procedural modifications only to the previously adopted Earned Income Tax Ordinance, and no gap as to imposition of the tax set forth herein should be inferred.

(Ord. 980, 9/27/2011, §7)

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

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

Gross volume of business—both cash and credit transactions.

License year—the calendar year beginning January 1, 1975, and ending midnight, December 31, 1975, and each calendar year thereafter.

Person—any individual, partnership, association or corporation.

Place of amusement—any place indoors or outdoors where the general public or a limited or selected number thereof may upon payment of an established price, attend or engage in any amusement, contest, recreation, including among other places, theaters, opera houses, motion picture houses, amusement parks, stadiums, arenas, baseball or football parks or fields, skating rinks, circus or carnival tents or grounds, fair grounds, bowling alleys, billiard or pool rooms, nine or ten pin alleys, riding academies, golf courses, bathing and swimming places, dance halls, tennis courts, archery, rifle or shotgun ranges and other like places. The term does not include any exhibition, amusement, performances or contest conducted by a nonprofit corporation or association organized for religious, charitable or educational purposes.

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

Tax Collector—a person duly authorized by resolution of the Borough Council.

Temporary, seasonal or itinerant business—any business that is conducted at one location for less than 60 consecutive days.

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

The terms “person,” “wholesale dealer,” “wholesale vendor,” “retail dealer,” and “retail vendor” shall not include nonprofit corporations organized for religious, charitable or educational purposes; any association organized for such purposes; agencies of the Government of the United States or of the Commonwealth of Pennsylvania; or any person vending or disposing of articles of his own growth, production or manufacture for shipment or delivery from the place of growth, production or manufacture thereof.

(Ord. 722, 9/18/1974, §1)

§24-302. Levy and Collection of Tax.

For the license year 1975 and annually thereafter the Borough hereby imposes an annual mercantile license tax in the manner and at the rates hereinafter set forth.

(Ord. 722, 9/18/1974, §2)

§24-303. Licenses.

Beginning in the license year 1975, every person desiring to continue to engage in, or hereafter to begin to engage in the business of wholesale or retail vendor, or dealer in goods, wares and merchandise, and any person conducting a restaurant or other place where food, drink or refreshments are sold, or place of amusement, whether or not the same be incidental to some other business or occupation, shall on or before the 15th day of January of each license year, procure a mercantile license for his place of business, or if more than one, for each of his places of business in the Borough, from the Tax Collector as required by law; such license shall be conspicuously posted at the place of business or each of the places of business of every person at all times.

(*Ord. 722, 9/18/1974, §3*)

§24-304. Imposition and Rate of Tax.

Every person engaged in any of the following occupations or businesses in the Borough shall pay an annual mercantile license tax for each license year at the rate set forth:

A. Wholesale vendors or dealers in goods, wares and merchandise, at the rate of 1 mill on each dollar of the volume of the annual gross business transacted by him.

B. Retail vendors or dealers in goods, wares and merchandise, all persons engaged in conducting restaurants or other places where food, drink or refreshments are sold, whether or not the same be incidental to some other business or occupation, and all persons conducting places of amusement, whether or not the same be incidental to some other business or occupation, at the rate of 1½ mills on each dollar of the volume of the annual gross business transacted by him; provided, however, that this tax shall not be imposed on admissions to motion picture theaters.

C. Wholesale and retail vendors or dealers in goods, wares and merchandise, at the rate of 1 mill on each dollar of the annual gross wholesale business transacted by him, and 1½ mills on each dollar of the volume of the annual gross retail business transacted by him.

(*Ord. 722, 9/18/1974, §4*)

§24-305. Computation of Volume of Business.

1. Every person subject to the payment of the tax hereby imposed who has commenced his business at least 1 year prior to the beginning of the license year shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the preceding calendar year.

2. Every person subject to the payment of the tax hereby imposed who has commenced or who commences his business less than 1 full year prior to the beginning of the license year shall compute his annual gross volume of business for such license year upon the gross volume of business transacted by him during the first month he engaged in business multiplied by 12.

3. Every person subject to the payment of the tax hereby imposed who commences his business subsequent to the beginning of the license year, shall compute his annual gross volume of business for such license year upon the gross volume of business

transacted by him during the first month of his engaging in business multiplied by the number of months he engaged in business in such license year.

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

5. The Tax Collector is hereby authorized to accept payment under protest of the amount of mercantile tax claimed by the Borough in any case where the taxpayer disputes the validity or the amount of the Borough's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that the Borough has been overpaid, the amount of the overpayment shall be refunded to the taxpayer. The provisions of this Section shall be applicable to cases in which the facts are similar to those in a case litigated in a court of competent jurisdiction.

(*Ord. 722, 9/18/1974, §5*)

§24-306. Returns.

1. Every return shall be made upon a form furnished by the Tax Collector. Every person making a return shall certify the correctness thereof by affidavit.

2. Every person subject to the tax imposed by this Part who commenced his business at least 1 full year prior to the beginning of any license year shall on or before the 15th day of April file with the Tax Collector a return, setting forth his name, his business and business address, and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, and the amount of the tax due.

3. Every person subject to the tax imposed by this Part who has commenced his business less than 1 full year prior to the beginning of any license year shall on or before the 15th day of April of the current license year file with the Tax Collector a return setting forth his name, his business, business address, and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the first month of business and the amount of the tax due.

4. Every person subject to the tax imposed by this Part who commences business subsequent to the beginning of any license year shall within 40 days from the day of commencement of such business file a return with the Tax Collector setting forth his name, his business and business address, and such information as may be necessary in arriving at the actual gross amount of business transacted by him during the first month of business and the amount of the tax due.

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

(*Ord. 722, 9/18/1974, §6*)

§24-307. Payment.

At the time of filing the return, the person making the same shall pay the amount of the tax shown as due thereon to the Tax Collector.

(*Ord. 722, 9/18/1974, §7*)

§24-308. Powers and Duties of Tax Collector.

1. It shall be the duty of the Tax Collector to collect and receive the taxes, fines and penalties imposed by this Part; it shall also be the duty to keep a record showing the amount received by him from each person paying the tax and the date of each receipt.

2. The Tax Collector is hereby charged with the administration and enforcement of the provisions of this Part, and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the re-examination and correction of returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred. Any person aggrieved by any decision of the Tax Collector shall have the right to appeal to a court or courts of competent jurisdiction as in other cases provided.

3. The Tax Collector is hereby authorized to examine the books, papers and records of any taxpayer or supposed taxpayer, in order to verify the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such taxpayer, or supposed taxpayer, is hereby directed and required to give to the Tax Collector the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

4. The Tax Collector is further authorized to delegate any of his authority herein established or contained to other employees of the Borough or to accountants or auditors retained by the Borough for the purpose of assisting in the administration of this Part and the enforcement and collection of the taxes imposed hereunder and of the auditing of the accounts of the taxpayers and persons licensed hereunder.

5. The Tax Collector shall not receive any additional compensation for acting as such under the provisions of this Part, but all expenses for the administration of this Part, the enforcement and collection of the taxes imposed hereunder, and for the auditing of accounts shall be borne by the Borough.

(*Ord. 722, 9/18/1974, §8*)

§24-309. Confidential Nature of Returns, Etc.

Any information gained by the Tax Collector, or any other officer, official, agent or employee of the Borough as a result of any returns, investigations, hearings or verifications, required or authorized by this Part, shall be confidential, except in accordance with proper judicial order or as otherwise provided by law, and divulgence of any information so gained is hereby declared to be a violation of this Part, which may be punished by dismissal from office or employment.

(*Ord. 722, 9/18/1974, §9*)

§24-310. Suit on Collection; Penalty.

1. The Tax Collector may sue for the recovery of taxes due and unpaid under this Part and may enter such suit in the name of the Borough.

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

(*Ord. 722, 9/18/1974, §10*)

§24-311. Fines and Penalties.

1. Whoever makes any false or untrue statement of his return, or who refuses to permit inspection of the books, records or accounts of any business in his custody when the right to make such inspection by the Tax Collector is requested, and whoever fails or refuses to file a return required by this Part, and whoever fail to procure a mercantile license when so required under this Part, or fails to keep his license conspicuously posted at his place of business as herein required, shall, upon conviction thereof, be sentenced to pay a fine not less \$100 nor exceeding \$600 and costs and, in default of payment thereof, shall be subject to imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. [*Ord. 978*]

2. Where the taxpayer is a firm or association, the fine or penalty may be imposed upon any of the partners or members thereof, and in the case of corporations, upon any of the officers thereof.

(*Ord. 722, 9/18/1974, §11; as amended by Ord. 846, 9/18/1991, §24-311; and by Ord. 978, 5/31/2011*)

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

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

Borough—the Borough of Pitcairn.

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

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

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

Exemption certificate—an exemption certificate substantially in the form of the uniform certificate prescribed by the Pennsylvania Department of Community and Economic Development affirming that the person reasonably expects to receive earned income and/or net profits from all sources within the municipality of less than \$12,000 in the calendar year for which the exemption certificate is filed, which exemption certificate has attached to it a copy of all of the employee's last pay stubs or W-2 forms from employment within the municipality for the year prior to the calendar year for which the employee is requesting to be exempted from the tax. In addition to the income exemptions, provision has been made for certain military exemptions.

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

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

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

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

Net profits—the net income from the operation of a business, profession; or other activity, as this term is defined in §13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1251, §13, as amended, 53 P.S. §6913, as amended.

Occupation—any livelihood, trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or

performed within the corporate limits of the political subdivision for which compensation is charged or received, whether by means of salary, wages, net profits, commission or fees for services rendered.

Political subdivision—the area within the corporate limits of the Borough of Pitcairn.

Preceding year—the calendar year before the current year.

Tax—the local services tax at the rate fixed in §24-402 of this Part.

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

(Ord. 958, 12/23/2008, §I)

§24-402. Levy of Tax.

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2009, and continuing on a calendar basis annually thereafter, until modified, amended, or repealed by a subsequent law and/or ordinance; upon the privilege of engaging in an occupation with a primary place of employment within the Borough of Pitcairn during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$52, assessed on a pro rata basis, in accordance with the provisions of this Part. This tax may be used solely for the following purposes as the same may be allocated by the Borough of Pitcairn from time to time: (A) emergency services, which shall include emergency medical services, police services and/or fire services; (B) road construction and/or maintenance; (C) reduction of property taxes; or (D) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85, Subch. F (relating to homestead property exclusion). The political subdivision shall use no less than 25 percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

(Ord. 958, 12/23/2008, §I)

§24-403. Exemption and Refunds.

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

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

B. Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the

purposes of this paragraph, “reserve component of the armed forces” shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

2. *Procedure to Claim Exemption.*

A. A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person’s employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than \$12,000 in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee’s last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by paragraph .B, the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.

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

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

D. Except as provided in paragraph .B, it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates,

monitoring tax exemption eligibility or exempting any employee from the local services tax.

3. *Time Period.* Any person who has overpaid the tax may obtain a refund by making a written application for a refund to the Collector no later than 1 calendar year after payment of the tax or 3 years after the due date for payment of the tax, whichever is later; provided that said person satisfactorily proves to the Collector that the taxpayer is entitled to the refund.

A. The Borough of Pitcairn, in consultation with the Municipal Tax Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The Borough of Pitcairn or the Municipal Tax Collector shall determine eligibility for exemption and provide refunds to exempt persons.

B. It should be noted that incomplete refund requests will be deferred until the missing or incomplete information is provided. Refunds in the deferred status are only subject to the accrual interest.

(*Ord. 958, 12/23/2008, §I*)

§24-404. Duty of Employers to Collect.

1. Every employer shall, within 30 days after first becoming an employer, register with the tax office the employer's name, address and such other information as the tax office may require. Failure to register in a timely manner does not relieve the employer of the requirements of this Part.

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

3. Employers who withhold the tax from employee earnings, and the person responsible for the transmission of the tax 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 civil and criminal penalties for breach of duties.

4. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each

payroll period to the nearest $\frac{1}{100}$ dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in subsection .5 of this Section. For purposes of this subsection, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.

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

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

7. Though the Borough of Pitcairn is assessing a tax of \$26, the tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.

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

9. A recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of local services tax withheld.

10. A statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within 2 weeks of its occurrence.

11. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of a calendar year. A tax return must be filed for each calendar quarter, regardless of whether withholdings were completed or any tax liability exists.

12. Any employer who discontinues business or ceases operation during the calendar year, shall within 30 days after discontinuing business or ceasing operation, file the return hereinabove required and pay the tax to the Collector.

(Ord. 958, 12/23/2008, §I)

§24-405. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Municipal Tax Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee,

except as provided hereafter in this Part, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

(*Ord. 958, 12/23/2008, §I*)

§24-406. Dates for Determining Tax Liability and Payment.

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

(*Ord. 958, 12/23/2008, §I*)

§24-407. Self-employed Individuals.

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this Part and pay the pro rata portion of the tax due to the Municipal Tax Collector on or before the thirtieth day following the end of each quarter. The pro rata share of the tax assessed on a taxpayer for a calendar quarter shall be determined by dividing the rate of the tax levied (\$52) for the calendar year by four.

(*Ord. 958, 12/23/2008, §I*)

§24-408. Collection of Tax.

1. Remittances shall be made payable to the Borough of Pitcairn.
2. The current Borough of Pitcairn fees will be levied if a check is returned unpaid by the bank.

(*Ord. 958, 12/23/2008, §I*)

§24-409. Payment under Protest.

A 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 appraise the Tax Collector'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 Collector to undertake an investigation of the person's claim. If a court of competent jurisdiction thereafter decides that there has been overpayment to the Tax Collector, the Tax Collector shall refund the amount of the overpayment to the person who paid under protest. Refunds shall be made only pursuant to approval of the Borough Council.

(*Ord. 958, 12/23/2008, §I; as amended by Ord. 978, 5/31/2011*)

§24-410. Withheld Taxes Are Held in Trust.

1. Local taxes withheld from employee wages by an employer or business entity or corporation are held in trust for the taxing authority and its Tax Collector, even in the event of a bankruptcy; said funds withheld shall not be the "property of the

bankrupt estate.” Said withheld taxes shall not be commingled in the employer’s general cash or other accounts.

2. A. *Trustee ex Maleficio*. One who collects the tax as agent for the 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.

B. Businesses and corporations must act through individuals and where such individuals are the acting and controlling officers and agents of the corporation or business, and they fail to administer the trust responsibilities, liabilities are imposed upon the individuals who are responsible for the performance of the trust duty.

C. *Liabilities of Corporations and Officers*. Where a corporation does not remit the tax withheld from its employees and subsequently is dissolved in bankruptcy, the corporate officers shall be held personally liable, jointly or severally, for the payment of the tax withheld.

3. The employer, the business, or the corporation shall not characterize the tax withheld simply as creating a debtor-creditor relationship between the employer, business or corporation and the Borough of Pitcairn as collector for the taxing authority. Therefore the employer, business or corporation is the conduit for its employees’ tax payments. Consequently, these taxes are withheld in “express trust” or in “constructive trust” for the taxing authority and its collector of these taxes.

4. *Lowest Intermediate Balance Test (L.I.B.T.)*. This is a judicial test which the Tax Collector will apply to ease the burden of the beneficiary (the tax collector) to trace the funds if or when a trustee commingles trust funds due to the Borough of Pitcairn with other monies in a single account. The L.I.B.T. allows trust beneficiaries to assume that trust funds are withheld last from a commingled account. Therefore the lowest intermediate balance in an account represents trust funds that have never been dissipated and which are reasonably identifiable. The Borough of Pitcairn will take the position that the Court will keep in mind a broad policy against allowing a party unilaterally to make a trust unenforceable by commingling assets. Also, in the event of a bankruptcy filing the L.I.B.T. is intended to provide a method for the Tax Collector to demonstrate that amounts of withheld taxes were/are still in the possession of the debtor at the commencement of the case.

5. *Interlocking Business Entities*. A company that maintains separate payrolls for its employees on a separate checking account or general ledger system and reported to the Tax Collector that it has withheld payroll tax from its employees shall be liable for the tax, plus penalty, plus interest, when the tax has not been remitted to the Tax Collector.

(Ord. 958, 12/23/2008, §I)

§24-411. Individuals Engaged in More than One Occupation or Employed in More than One Political Subdivision.

The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following

order:

A. First, the political subdivision in which a person maintains his or her principal office or is principally employed.

B. Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision.

C. Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

(*Ord. 958, 12/23/2008, §I*)

§24-412. Nonresidents Subject to Tax.

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

(*Ord. 958, 12/23/2008, §I*)

§24-413. Administration of Tax.

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

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

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

and opportunity for such examination. Any such examination shall be conducted within this municipality or at the office where the tax return is processed.

4. All employers who have a place of business located within the Taxing Authority shall maintain complete records of all employees for a period of 6 years in such form as to enable the Tax Collector to determine the employers' liability to withhold for each employee, the actual amount withheld, the actual amount transmitted to the Tax Collector and such other information available to such employers as will enable the Tax Collector to carry out its responsibilities.

5. The limitations set forth in subsection .2 should not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

- A. Where no return was filed, there shall be no limitation.
- B. Where the return is fraudulent, there shall be no limitation.
- C. Where there is an understatement of tax liability of 25 percent or more, and not due to fraud, suit shall begin within 6 years.

6. If as a result of research or investigation conducted by or on behalf of the Tax Collector, a declaration or return is found or is reasonably believed to be incorrect, the Tax Collector is authorized to assess and collect underpayments of taxes withheld at the source, or any underpayments of tax owed by any employer or taxpayer with respect to the tax. 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 without the formality of obtaining a delinquent declaration or return from the employer or taxpayer.

7. *Hearings/Meetings.* Any person aggrieved by an assessment made by the Tax Collector may, within 30 days after receipt of notice of the assessment, appeal the assessment by forwarding a letter to the Tax Collector 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 30 days of the receipt of the appeal notice, unless both parties consent to a continuance. The appeal meeting or hearing may be recorded at the decision of the Tax Collector. A decision on the appeal shall be rendered by the Tax Collector within 30 days of the close of the meeting or hearing, unless both parties agree to an extension to render a determination. 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.

8. *Administrative Review Procedure.* Upon receipt of a written request for an Administrative Review (hereinafter referred to as "the review"), the review will be scheduled within 30 days from the date such request is received by the Tax Collector.

A. The review may be recorded at the option of the Tax Collector and the appellant may be required to provide verification that all factual information presented, including oral statements, are true, correct and complete to the best of their knowledge and belief. If a record is made of the review, the appellant may obtain a copy of the record by paying a fee equal to 50 percent of all costs incurred in the preparation and transcription of the record.

B. The purpose of the review shall include, but not be limited to a review of all documents, data and records produced by appellant and an opportunity for

appellant to explain his or her position and be heard on issues directly relating to the filing of the tax return and payment of taxes. The Tax Collector, or his authorized representative, shall have ample opportunity to make such inquiries of appellant as will enable the Tax Collector to fully understand appellant's information and documents and to make other inquiries as may be appropriate in examining and understanding appellant's position.

C. Appellant shall file with the Tax Collector the properly completed and signed proposed tax returns for each tax year in question and such returns, along with any supporting data and documents, shall be reviewed. A reasonable effort shall be made to reach a fair and equitable accommodation with the appellant. In the event this can not be done, the Tax Collector, after a review of all the data and records submitted and of the record of the hearing, shall make such determination as he believes in his opinion to be appropriate and notify the appellant of his determination in writing, which shall be sent to the appellant at appellant's last known address by ordinary mail and which shall then become appellant's formal notice of appellant's tax liability as of the date of that determination.

(*Ord. 958, 12/23/2008, §I*)

§24-414. Suits for Collection.

1. In the event that any tax under this Part remains due or unpaid 30 days after the due dates above set forth, the Municipal Tax Collector may sue for the recovery of any such tax due or unpaid under this Part, together with interest and penalty and costs of collection as prescribed by Ordinance No. 2374, as amended.

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

3. The failure of a taxpayer to receive a tax return does not relieve their filing or payment responsibility.

(*Ord. 958, 12/23/2008, §I*)

§24-415. Violations and Penalties.

Whoever makes any false or untrue statement on any return required by this Part, or whoever fails, neglects, or refuses to make a return required, any employer who fails, neglects or refuses to register or to pay the tax deducted from employees, or fails, neglects, or refuses to deduct or withhold the tax from employees or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this Part shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not less than \$100 nor more than \$600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required

by this Part.

(*Ord. 958, 12/23/2008, §I; as amended by Ord. 978, 5/31/2011*)

§24-416. Interpretation.

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

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

(*Ord. 958, 12/23/2008, §I*)

Part 5**Tax Exemptions****§24-501. Procedures.**

1. A longtime owner/occupant of property within the Borough of Pitcairn shall be exempt from the payment of property tax to the Borough of Pitcairn for that portion of an increase in assessed valuation which is attributed to an increase in the market value of a property which exceeds 5 percent from the previously established market value as a result of the refurbishing or renovating of other residences or the construction of new residences in the Borough of Pitcairn. An increase in assessed valuation as a result of the physical improvement of the subject property shall be excluded from consideration for an exemption hereunder.

2. An exemption of payment of an increase in real property taxes granted pursuant to this Part shall be limited to real property which meets all the following conditions:

A. The property is owned and occupied by a longtime owner/occupant.

B. The property is the principal residence and domicile of the longtime owner/occupant.

C. A longtime owner/occupant is any person who for at least 10 continuous years has owned and has occupied the same dwelling place as a principal residence and domicile, or any person who for at least 5 years has owned and occupied the same dwelling as a principal residence and domicile if that person received assistance in the acquisition of the property as part of a government or nonprofit housing program.

D. A principal residence is the dwelling place of a person, including the principal house and lot, and such lots as are used in connection therewith which contribute to the enjoyment, comfort and convenience. For purposes of this Part, the term may also include a building with a maximum of one commercial establishment and a maximum of three residential units of which one residential unit must be the principal residence of the longtime owner/occupant.

E. A person is a natural person, excluding a corporation, partnership, condominium association or cooperative.

F. The owner/occupant has been granted tax gentrification approval by the County of Allegheny.

3. Any person seeking an exemption hereunder shall submit to the Borough of Pitcairn Tax Collector by June 1, or 30 days after the tax gentrification approval by the County of Allegheny, whichever is later, the tax gentrification approval form as issued by the Board of Assessment of the County of Allegheny. For the initial year of implementation of this program commencing January 1, 1994, the tax gentrification approval form must be filed with the Borough of Pitcairn Tax Collector by June 1, 1994.

4. The term of the exemption shall be for 1 tax year and subsequent years; however, if the market value is increased by more than 5 percent in subsequent years, the property owner will be required to re-apply.

5. The Borough of Pitcairn Tax Collector shall promptly process the application and shall notify the applicant of its decision. The Borough of Pitcairn Tax Collector may also require the applicant to supply such other documentation as may be required to properly consider the application.

(Ord. 865, 4/20/1994)

Part 6**Local Revitalization Tax Assistance****§24-601. Definitions.**

The following words and phrases used in this Part shall have the meanings set forth below:

Board—the Allegheny County Board of Property Assessment, Appeals and Review.

Deteriorated property—any residential, commercial, industrial or other business property located in the tax exemption area.

Improvement or improvements—construction or reconstruction, including alteration and additions, having the effect of rehabilitating a property in the tax exemption area so that it becomes habitable or attains higher standards of safety, health or economic use or is brought into compliance with laws, ordinances or regulations governing such property. Ordinary upkeep and maintenance shall not be deemed an improvement.

Tax exemption area—the geographic area of the Borough of Pitcairn.

(*Ord. 851, 9/16/1992, §1*)

§24-602. Requirements for Exemption.

Any owner of a property in the tax exempt area making an improvement to such property may apply for a tax exemption pursuant to this Part subject to the following requirements:

A. Any tax exemption granted under this Part shall be limited to improvements for which an exemption has been requested pursuant to the requirements of this Part and for which a separate assessment has been requested and made by the Board.

B. No tax exemption shall be granted under this Part if the improvement does not comply with all applicable ordinances and regulations of the Borough of Pitcairn.

C. If property for which a tax exemption has been granted is damaged or destroyed by any cause or for any reason and the assessed valuation of such property is reduced as a result of such damage or destruction, the tax exemption authorized by this Part shall be limited to that portion of the assessed valuation attributable to any improvement that is in excess of the original assessed valuation of the property existing prior to such damage or destruction.

D. The tax exemption under this Part shall be for 100 percent of the increased real estate tax assessment attributable to the improvement for a period of 3 years. The tax exemption for improvements to existing residential dwelling shall be the maximum permitted by statute and the maximum for new residential dwelling shall be \$100,000. The 3-year exemption period will commence with the year in which an assessed valuation attributable to the improvement is first imposed by the Board, whether such assessed valuation is based upon the completed

improvement or constitutes a partial assessment upon the improvement prior to completion.

E. The tax exemption authorized by this Part shall be on the improvement to the property and shall not terminate upon the sale or exchange of the property.

(Ord. 851, 9/16/1992, §2)

§24-603. Procedure for Obtaining Exemption.

At the time the owner of a property in the tax exempt area applies for a building permit to make improvements, he shall make a written application for tax exemption under this Part on a form to be provided by the Borough of Pitcairn.

A. The application for exemption must be in writing on a form provided by the Borough and must set forth the following:

- (1) The date on which the building permit was applied for with respect to the improvement.
- (2) The type of improvement for which the exemption is requested.
- (3) A copy of the plan of the improvement, including any building plans or site plans otherwise required by the Borough's ordinances and regulations.
- (4) The estimated actual cost of the improvement.
- (5) Such additional information as the Borough may reasonable require.

B. The completed application shall be submitted to the Borough Manager. If the application for tax exemption meets the requirements of this Part, the Borough Manager shall forward a copy of the request to the Board or other appropriate assessment agency.

C. The Board will inspect and assess the improvement pursuant to its own rules, regulations and procedures and will certify its assessed valuation on the improvement of the Borough and the owner of the property. The Borough shall then exempt from real property taxation during the tax exemption period 100 percent of the tax upon the assessed valuation attributable to the improvement.

D. Appeals from assessed valuation placed upon the improvement may be taken by the owner of the property or by the Borough pursuant to the applicable law.

(Ord. 851, 9/16/1992, §3)

§24-604. Notice to Taxpayers.

The Borough's application for a building permit shall contain the following notice:

NOTICE TO TAXPAYERS

PURSUANT TO ORDINANCE NO. 851 OF THE BOROUGH OF PITCAIRN, YOU MAY BE ENTITLED TO A REAL PROPERTY TAX EXEMPTION IN CONNECTION WITH THE CONTEMPLATED RENOVATION OR CONSTRUCTION OF YOUR PROPERTY. COPIES OF THIS ORDINANCE ARE AVAILABLE FOR YOUR REVIEW IN THE OFFICE OF THE BOROUGH MANAGER DURING NORMAL BUSINESS HOURS. AN APPLICATION FOR TAX EXEMPTION MAY BE OBTAINED FROM THE BOROUGH MANAGER AND MUST BE FILED WITH HIM AT THE TIME THIS APPLICATION FOR

A BUILDING PERMIT IS FILED.

(Ord. 851, 9/16/1992, §4)

Part 7**Tax Assessment Limitation Program****§24-701. Definitions.**

Act 77—the Act of December 22, 1993, P.L. 529, No. 77, codified as the Allegheny Regional Asset District Law, Pa., 16 P.S. §6101-B *et seq.*

Allegheny Regional Asset District Law—see the definition of Act 77 above.

Assessment—the fair market value of property as determined by the Board of Property Assessment, Appeals and Review of Allegheny County.

Borough—the Borough of Pitcairn.

Council—the Council of the Borough of Pitcairn.

Department of Property Assessment—the Department of Property Assessments, Appeals, Review and Registry of Allegheny County.

Eligible taxpayer—a longtime owner/occupant of a principal residence in the Borough of Pitcairn who is:

A. A single person aged 65 or older during a calendar year in which County real property taxes are due and assessed.

B. Married persons if either spouse is 65 or older during a calendar year in which the Borough real property taxes are due and assessed.

Household income—all income received by an eligible taxpayer while residing in his or her principal residence during a calendar year.

Income—all income from whatever source derived including, but not limited to, salaries, wages, bonuses, commissions, income from self employment, alimony, support money, cash public assistance and relief, the gross amount of any pensions or annuities including railroad retirement benefits, all benefits received under the Federal Social Security Act (except Medicare benefits), all benefits received under State Unemployment Insurance laws and Veteran's disability payments, all interest received from the Federal or any state government or any instrumentality or political subdivision hereof, realized capital gains, rentals, workmen's compensation and the gross amount of loss of time insurance benefits, life insurance benefits and proceeds (except the first \$5,000 of the total of death benefit payments), and gifts of cash or property (other than transfers by gift between members of a household) in excess of a total value of \$3,000, but shall not include surplus food or property tax or rent rebate or inflation dividend.

Longtime owner/occupant—any person who for at least 10 continuous years has owned or has occupied the same dwelling place as a principal residence and domicile, or any person who for at least five years has owned and occupied the same dwelling as a principal residence and domicile if that person received assistance in the acquisition of the property as part of a government or nonprofit housing program.

Person—a natural person.

Principal residence—the dwelling place of a person, including the principal house and lot, and such lots as are used in connection therewith which contribute to its enjoyment, comfort and convenience; or a building with a maximum of one commercial

establishment and a maximum of three residential units of which one residential unit must be a principal residence of the longtime owner/occupant.

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

(*Ord. 873, 10/21/1994, §1*)

§24-702. Eligible Taxpayers.

All eligible taxpayers in the Borough who are longtime owner/occupants shall be entitled to have the assessment on his or her principal residence maintained at or limited to the amount determined by the Department of Property Assessment for the calendar year 1993 if the eligible taxpayer meets the household income limits for qualification for any amount of property tax rebate under the Senior Citizens Rebate and Assistance Act.

(*Ord. 873, 12/21/1994, §2*)

§24-703. Participation in Limitation Tax Assessment Program.

Any person paying property taxes in the Borough may apply to participate in the assessment limitation program authorized under this Part. In order to be eligible to participate in this program, the person must meet the following conditions:

A. The person must be a single person aged 65 or older; or be married persons with either spouse being 65 or older.

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

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

D. The person's household income must qualify him or her to receive any amount of property tax rebate under the Senior Citizens Rebate and Assistance Act, 72 P.S. §4751-1 *et seq.*

(*Ord. 873, 12/21/1994, §3*)

§24-704. Rules and Regulations.

The Department of Property Assessment and the Borough Manager shall have the authority to issue rules and regulations with respect to the administration of the limitation of tax assessment program established under this Part. Such rules and regulations shall include, but not be limited to, reasonable proof of household income, proof of residence, proof of qualification for or receipt of a property tax rebate under the Senior Citizens Rebate and Assistance Act and any other reasonable requirements and conditions as may be necessary to operate the tax assessment limitation program.

(*Ord. 873, 12/21/1994, §4*)

Part 8**Delinquent Tax Collector****§24-801. Appointment.**

In accordance with Act 104 of 2000, the Council of the Borough of Pitcairn hereby appoints the elected Tax Collector as the Delinquent Tax Collector from January to June 30th of each tax year thereafter. The Delinquent Tax Collector so appointed shall have the same rights, powers, privileges, duties and obligations as set forth in 24 P.S. §6-686 of the Public School Code of 1949.

(Ord. 928, 12/27/2001, §2)

