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Part 1
Realty Transfer Tax

§101. Short Title.

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

(Ord. 1557, 2/9/1987, §1)

§102. Authority.

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

(Ord. 1557, 2/9/1987, §2)

§103. Definitions.

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

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

DOCUMENT – any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments or like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under §102 of this Part.

FAMILY FARM CORPORATION – a corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of

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stock of the corporation is continuously owned by members of the same family. The business of agriculture shall not be deemed to include:

- (1) Recreational activities, such as but not limited to hunting, fishing, camping, skiing, show competition or racing.
- (2) The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities.
- (3) Fur farming.
- (4) Stockyard and slaughterhouse operations.
- (5) Manufacturing or processing operations of any kind.

MEMBERS OF THE SAME FAMILY – any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by half blood or legal adoption shall be treated as if they were related by whole blood.

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

REAL ESTATE-

- (1) All lands, tenements or hereditaments within the Borough of Pottstown, 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 of 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% or more of the ownership interest in which is held by 35 or fewer persons and which:

- (1) Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or

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

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; or
- (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, leasehold interest or possessory interest under lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

TRANSACTION – the making executing, delivering, accepting or presenting for recording of a document.

VALUE -

- (1) In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate; provided that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;
- (2) In the case of a gift, sale by execution upon a judgment or upon the foreclosures of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purpose for the common-level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania Realty Transfer Tax base calculations;
- (3) In the case of an easement or other interest in real estate the value of which is not determinable under Subsections (1) and (2), the actual monetary worth of such interest; or

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

(Ord. 1557, 2/9/1987, §3)

§104. Imposition of Tax; Interest.

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay, for and in respect to the transaction or any part thereof, a tax at the rate of one 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 payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
3. It is the intent of this Part that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitation prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer than the tax levied by the Borough of Pottstown under the authority of the Act shall, during the time such duplication of such tax exists, except as hereinafter otherwise provided, be one-half of the rate, and such one-half rate shall become effective without any action on the part of the Borough of Pottstown; provided, however, that the Borough of Pottstown and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.
4. Any tax imposed under this Part that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. §7101 et seq.), as amended, known as the "Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in Section 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. 1557, 2/9/1987, §4; as amended by Ord. 2031, 12/11/2006)

§105. Exempt Parties.

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

(Ord. 1557, 2/9/1987, §5)

§106. Excluded Transactions.

1. The tax imposed by this Part shall not be imposed upon:
 - A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments, provided that said reconveyance is made within one year from the date of condemnation.
 - B. A document which the Borough of Pottstown is prohibited from taxing under the Construction or statutes of the United States.
 - C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or Tax Claim Bureau sale.
 - D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded but which does not extend or limit existing record legal title or interest.
 - E. A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
 - F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided that the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee

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

- G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- I. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- J. A transfer for no or nominal actual consideration from a trustee to successor trustee.
- K. A transfer for no or nominal actual consideration between principal and agent or straw party; or 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 the title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.
- L. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.
- M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.
- N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to the 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 the grantee shall directly use such real estate for the primary purpose of research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and the agency or authority has the full ownership interest in the real estate transferred.
 - P. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
 - Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
 - R. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c) (3) of the Internal Revenue Code of 1954, (68 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% 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 one dollar 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 §106, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania realty transfer tax statement of value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this Part.

(Ord. 1557, 2/9/1987, §6)

§107. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in §106, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the

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members, partners, shareholders or stockholders thereof are fully taxable. For the purpose of this Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(Ord. 1557, 2/9/1987, §7)

§108. Acquired Company.

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or, together with prior changes, has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three 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 acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.
3. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the Recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania realty transfer tax declaration of acquisition may be submitted for this purpose.

(Ord. 1557, 2/9/1987, §8)

§109. 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 of the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

3. Where there is a transfer of real estate which is leased by the grantor, a credit of the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
4. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
5. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed.

(Ord. 1557, 2/9/1987, §9)

§110. 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. 1557, 2/9/1987, §10)

§111. 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, except the State realty transfer tax, and the sheriff or other officer conducting said sale shall pay the tax herein imposed out of the first monies paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

(Ord. 1557, 2/9/1987, §11)

§112. Duties of Recorder of Deeds.

1. As provided in 16 P.S. §11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to the Borough of Pottstown based on a re-determination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Borough of Pottstown.
2. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a

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deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

3. On or before the tenth of each month, the Recorder shall pay over to the Borough of Pottstown all local realty transfer taxes collected, less two percent for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The two-percent commission shall be paid to the county.
4. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only with both the State and local amounts and a rerecording or recording fee has been entered.

(Ord. 1557, 2/9/1987, §12)

§113. Statement of Value.

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

(Ord. 1557, 2/9/1987, §13)

§114. Civil Penalties.

1. If any part of any underpayment of tax imposed by this Part is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
2. In the case of failure to record a declaration required under this Part on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax five percent for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

(Ord. 1557, 2/9/1987, §14)

§115. Lien.

The tax imposed by this Part shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying or being situated, wholly or in part, within the boundaries of the Borough of Pottstown, which lands, tenements, hereditaments, or interest therein are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this Part, said lien to begin at the time when the tax under this Part is due and payable and continue until discharged by payment or in accordance with the law, and the Solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Montgomery County in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 et seq., its supplements and amendments.

(Ord. 1557, 2/9/1987, §15)

§116. Enforcement.

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

(Ord. 1557, 2/9/1987, §16)

§117. Regulations.

The Tax Collector of the Borough of Pottstown is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §8101-C et seq. are incorporated into and made a part of this Part.

(Ord. 1557, 2/9/1987, §17)

§118. Effective Date.

This Part shall be effective immediately upon its adoption by the Mayor and Borough Council of the Borough of Pottstown, Montgomery County, Pennsylvania.

(Ord. 1557, 2/9/1987, §20)

Part 2

Earned Income and Net Profits Tax

§201. Definitions.

The following words and phrases, when used in this Part, shall have the meanings ascribed to them in this §201, except where the context clearly indicates or requires a different meaning:

ASSOCIATION – a partnership, limited partnership, or any other unincorporated group of two (2) or more persons.

BUSINESS – an enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by 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.

COUNCIL – Borough Council of Pottstown.

CURRENT YEAR – the calendar year for which the tax is levied; provided, however, as used herein, "current year" shall during 1969 refer only to the period beginning July 1, 1969, and ending December 31, 1969.

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

EARNED INCOME – salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or in property; not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement or payments arising under workmen's compensation acts, occupational disease acts and similar legislation, or payments commonly recognized as old age benefits, retirement pay or pensions paid to persons retired from service after reaching a

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specific age or after a stated period of employment or payments commonly known as public assistance, or unemployment compensation payments by any governmental agency or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs, including but not limited to, programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.

EMPLOYER – a person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one (1) or more persons for a salary, wage, commission or other compensation.

GOVERNING BODY – the Borough Council of the Borough of Pottstown, Montgomery County, Pennsylvania.

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

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

NONRESIDENT – a person, partnership, association or other entity domiciled outside the taxing district.

PERSON or INDIVIDUAL – a natural person.

PRECEDING YEAR – the calendar year before the current year.

RESIDENT – a person, partnership, association or other entity domiciled in the taxing district.

SUCCEEDING YEAR – the calendar year following the current year.

TAXPAYER – a person, partnership, association, or any other entity required under this Part to file a return of earned income or net profits, or to pay a tax thereon.

(Ord. 1203, 12/30/1968, §1)

§202. Imposition and Rate of Tax.

1. A tax for general revenue purposes is hereby imposed at the rate of one (1%) percent on the following:

- A. Earned income received in the current year by residents of the taxing district.
 - B. Earned Income received in the current year within the taxing district by nonresidents thereof.
 - C. Net profits earned during the current year by residents of the taxing district.
 - D. Net profits earned during the current year within the taxing district by nonresidents thereof.
2. The tax levied under this Part shall be applicable to earned income received and to net profits earned in the period beginning January 1 of the current year, and ending December 31 of the current year, or for taxpayer fiscal years beginning in the current year, except that taxes imposed for 1969 shall become effective July 1, 1969, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of tax is subsequently changed. Regardless of the fiscal year of any taxpayer, such taxpayer shall be liable for payment of the tax hereby imposed from July 1, 1969. As used herein, the term "current year" shall during 1969 refer only to the period beginning July 1, 1969, and ending December 31, 1969.

(Ord. 1203, 12/10/1968, §2)

§203. Declarations, Payment of Tax and Returns.

1. Net Profits.
 - A. Except during 1969, every taxpayer making net profits shall on or before April 15 of the current year, make and file with the Officer on a form prescribed or approved by the Officer, a declaration of his estimated net profits during the period beginning January 1 and ending December 31, of the current year, and pay to the Officer in four (4) equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration, and the other installments on or before June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, respectively.
 - B. Except during 1969, any taxpayer who first anticipates any net profit after April 15 of the current year, shall make and file the declaration hereinabove required, on or before June 15 of the current year, September 15 of the current year, or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the Officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.

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- C. For the year 1969, or before September 15 every taxpayer making net profits shall make and file with the Officer on a form prescribed or approved by the Officer a declaration of his estimated net profits during the period beginning July 1 and ending December 31, 1969, and pay to the Officer in two (2) equal installments the tax due thereon as follows: the first installment on or before September 15, 1969, and the second installment on or before January 15, 1970.
 - D. For the year 1969, any taxpayer who first anticipates any net profits after September 15, 1969, shall make and file the declaration hereinabove required on or before January 15, 1970, and pay to the Officer the tax due thereon on or before January 15, 1970.
 - E. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Officer on a form prescribed or approved by the Officer a final return showing the amount of net profits earned during the period beginning January 1 of the current year (July 1 in the year 1969), and ending December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the Officer the balance of tax due or shall make demand for refund or credit in the case of overpayment.
 - F. Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the Officer on or before January 31 of the succeeding year, the final return as hereinabove required.
 - G. The Officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.
 - H. Every taxpayer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.
2. Earned Income.
- A. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Officer on a form prescribed or approved by the Officer a final return showing the amount of earned income received during the period beginning January 1 of the current year (July 1 in the year 1969) and ending December 31 of the current year, the total amount of tax due thereon, and the amount of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

- B. Except during 1969, every taxpayer who is employed for a salary, wage, commission, or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the Officer on a prescribed or approved by the Officer, a quarterly return on or before April 30 of the current year, July 31 of the current year, October 31 of the current year, and January 31 of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the three (3)-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to the tax, together with such other information as the Officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the Officer the amount of tax shown as due thereon.
- C. For the short year beginning July 1, 1969, and ending December 31, 1969, the aforesaid requirements pertaining to the filing of quarterly returns and to the payment of tax due thereon, the filing and payment dates shall be October 31, 1969, and January 31, 1970.

(Ord. 1203, 12/30/1968, §3)

§204. Collection at Source.

1. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction who employs one (1) or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within fifteen (15) days after becoming an employer, or within fifteen (15) days after the effective date of this Part, whichever shall first occur, register with the Officer his name and address and such other information as the Officer may require.
2. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction who employs one (1) or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof, the tax imposed by this Part on the earned income due to his employee or employees, and shall, or before October 31, 1969, January 31, 1970, and thereafter on or before April 30 of the current year, July 31 of the current year, October 31 of the current year, and January 31 of the succeeding year, file a return and pay to the Officer the amount of taxes deducted during the preceding three (3)-month periods ending September 30, 1969, December 31, 1969, and thereafter ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively. Such return, unless otherwise agreed upon between the Officer and employer, shall show the name and Social Security number of each such employee, the earned income of such employee during such preceding three (3)-month period, the tax deducted therefrom, the political subdivision imposing the tax upon such employee, the total earned income of all such employees during

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such preceding three (3)- month period, and the total tax deducted therefrom and paid with the return.

3. Any employer who for two (2) of the preceding four (4) quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the Officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the Officer on or before the last day of the month succeeding the month for which the tax was withheld.
4. On or before February 28, of the succeeding year, every employer shall file with the Officer:
 - A. An annual return showing the total amount of earned income paid, the total amount of tax deducted, and the total amount of tax paid to the Officer for the period beginning January 1 of the current year (July 1 in the year 1969), and ending December 31 of the current year.
 - B. A return withholding statement for each employee employed during all or any part of the period beginning January 1 of the current year (July 1 in the year 1969), and ending December 31 of the current year, setting forth the employee's name, address and Social Security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, and the amount of tax paid to the Officer. Every employer shall furnish two (2) copies of the individual return to the employee for whom it is filed.
5. Every employer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.
6. Except as otherwise provided in §9 of the Local Tax Enabling Act, every employer who willfully or negligently fails or omits to make the deductions required by this §104 shall be liable for payment of the taxes which he was required to withhold to extent that such taxes have not been recovered from the employee.
7. The failure or omission of any employer to make the deductions required by this §104 shall not relieve any employee from the payment of the tax or from complying with the requirements of this Part relating to the filing of declarations and returns.
8. If an employer makes a deduction of tax as required by this Part, the amount deducted shall constitute in the hands of such employer a trust fund held for the account of the governing body as beneficial owner and the employee from whose earned income such tax was deducted shall be deemed to have paid such tax.

(Ord. 1203, 12/30/1968, §4)

§205. Powers and Duties of the Income Tax Officer.

1. It shall be the duty of the Income Tax Officer to collect and receive the taxes, fines and penalties imposed by this Part. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and, if paid by such person in respect to another, the name of such other person, and the date of such receipt.
2. The Income Tax Officer is hereby charged with the administration and enforcement of the provisions of this Part, and all amendments hereto, as well as all rules and regulations of Borough Council pertaining hereto, for the administration and enforcement of this Part, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to grant reasonable extensions of time upon proper cause shown for filing declarations or returns on forms approved by Council, found necessary for the administration of this Part.
3. The Income Tax Officer, and agents designated in writing by him, are hereby authorized to examine the books, papers and records of any person in order to verify the accuracy of any declaration or return, or, if no declaration or return was filed, to ascertain the tax due. Every person is hereby directed and required to give to the Income Tax Officer, or to any agent so designated by him, the opportunity for such examinations and investigations as are hereby authorized.
4. Any information gained by the Income Tax Officer, his agents, or by any other official, agent or employee of the Borough of Pottstown as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Part shall be confidential and shall not be disclosed by any person except for official use in connection with the administration or enforcement of this Part or as otherwise provided by law.
5. The Income Tax Officer is authorized to examine any person under oath concerning any income which was or should have been returned for taxation, and shall have the power and is hereby authorized to issue subpoenas to compel the attendance of persons whom he deems necessary to examine as witnesses, and to compel the production of books, records and papers relating to any account being examined.
6. The Income Tax Officer, or any other official or agent so designated by him, shall have the power to re-examine returns, correct erroneous returns, consent to make refunds and authorize the refunding of taxes erroneously or improperly collected from, or paid by, the taxpayers, for any period of time not to exceed six (6) years subsequent to the date of payment of the sum involved.
7. Any person aggrieved by an action of the Income Tax Officer shall have the right of appeal as provided by law.

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(Ord. 1203, 12/30/1968, §5)

§206. Suit for Collection of Tax.

1. The Income Tax Officer may sue in the name of the Borough of Pottstown for the recovery of taxes due and unpaid under this Part.
2. Any suit brought to recover the tax imposed by this Part shall be begun within three (3) years after such tax is due, or within three (3) years after the declaration or return has been filed, whichever date is later. Provided, however, that this limitation shall not prevent the institution of a suit for collection of any tax due or determined to be due in the following cases:
 - A. Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of this Part, there shall be no limitation.
 - B. Where no examination of the declaration or return filed by any person, or of other evidence relating to such declaration or return in the possession of the Income Tax Officer, reveals a fraudulent evasion of taxes, there shall be no limitation.
 - C. In the case of substantial understatement of tax liability of twenty-five (25%) percent or more, and no fraud, suit shall be begun within six (6) years.
 - D. Where any person has deducted taxes under the provisions of this Part and has failed to pay the amounts so deducted to the Income Tax Officer, or where any person has willfully failed or omitted to make the deductions required by this Part, there shall be no limitation.
 - E. This §106 shall not be construed to limit the Borough from recovering delinquent taxes by any other means provided by this Part.
3. The Income Tax Officer may sue for recovery of an erroneous refund provided such suit is begun two (2) years after making such refund, except that the suit may be brought within five (5) years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

(Ord. 1203, 12/30/1968, §6)

§207. Interest and Penalties.

If for any reason the tax is not paid when due, interest at the rate of six (6%) percent per annum on the amount of said tax, and an additional penalty of one-half of one (.5%) 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 costs of collection and the interest and penalties herein imposed.

(Ord. 1203, 12/30/1968, §6)

§208. Payment and Refunds.

The Income Tax Officer is hereby authorized to accept payment of the amount of tax claimed by the Borough in any case where any 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 Income Tax Officer, the amount of the overpayment shall be refunded to the person who paid.

(Ord. 1203, 12/30/1968, §8)

§209. Applicability.

This Part shall not apply to:

- A. Any person as to whom it is beyond the legal power of the Borough of Pottstown to impose the tax herein provided for under the Constitution of Pennsylvania.
- B. The net profits of any institution, organization, trust, association or foundation operated for public, religious, educational or charitable purposes.
- C. Provided, that this §209 shall not operate to relieve or exempt any such entity from collection at source of earned income of its employees and remittance of such collection to the Income Tax Officer.

(Ord. 1203, 12/30/1968, §9)

§210. Fines and Penalties.

- 1. Any person who fails, neglects or refuses to make any declaration or return required by this Part, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the Income Tax Officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than five hundred (\$500.00) dollars for each of-

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fense, and costs, and, in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty (30) days.

2. Any person who divulges any information which is confidential under the provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than five hundred (\$500.00) dollars for each offense, and costs, and, in default of payment of said fines and costs to be imprisoned for a period not exceeding thirty (30) days.
3. The penalties imposed under this §210 shall be in addition to any other penalty imposed by any other Section of this Part.
4. The failure of any person to receive or procure forms required for making the declaration or returns required by this Part shall not excuse him from making such declaration or return.

(Ord. 1203, 12/30/1968, §9)

§211. Incorporation of Local Tax Enabling Act.

All provisions of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, as amended and supplemented, are hereby incorporated in this Part by reference.

(Ord. 1203, 12/30/1968, §11)

Part 3
Per Capita Tax

§301. Title.

This Part shall be known and may be cited as the "Per Capita Tax Ordinance."

(Ord. 1230, 2/9/1970, §1)

§302. Tax Rate.

A tax to provide revenue for general Borough purposes is hereby levied, assessed and imposed upon all persons who are eighteen (18) years of age and over as of January 1, 1973, and are residents of the Borough of Pottstown at the rate of five (\$5.00) dollars per person for the year beginning January 1, 1973, to December 31, 1973.

(Ord. 1230, 2/9/1970, §2; as amended by Res. 12/27/1972)

§303. Payment to Tax Collector.

Tax shall be paid to the Tax Collector, who is hereby charged for the collection thereof. The Tax Collector shall account for and pay over to the Borough of Pottstown, all tax collected hereunder in the same manner as other taxes collected by him for the Borough of Pottstown.

(Ord. 1230, 2/9/1970, §3)

§304. Interest on Delinquent Taxes.

All taxes imposed by this Part, if not paid when due, shall bear interest at the rate of one-half (1/2) of one (1%) percent per month until paid.

(Ord. 1230, 2/9/1970, §4)

Part 4

Local Services Tax

§401. Short Title.

This Part shall be known and may be cited as the "Local Services Tax Ordinance" and is enacted under the authority of Act 511 of 1965, as amended, known as the "Local Tax Enabling Act."

(Ord. 1229, 2/9/1970, §1; as amended by Ord. 1990, 1/10/2005, §2a; and by Ord. 2046, 12/10/2007)

§402. Definitions.

The following words and phrases, when used in this Part, shall have the meanings ascribed to them in this §402, unless the context clearly indicates a different meaning:

BOROUGH OF POTTSTOWN – the area within the corporate limits of the Borough of Pottstown.

CALENDAR YEAR – twelve-month period beginning January 1 and ending December 31.

COLLECTOR – the person appointed by the Borough of Pottstown to collect the local services tax herein levied.

EARNED INCOME – "compensation," as 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 561 Pa. Code, Part I, Subpart B, Article V (relating to personal income tax), not including, however, wages or compensation paid to individuals on active military service. Employee business expenses are allowable deductions as determined under Article III of the Tax Reform Code of 1971. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

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

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 the em-

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ployee's last pay stubs for 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.

HE, HIS, HIM – the singular and plural number as well as male, female, and neuter gender.

INDIVIDUAL – any person, male or female, engaged in any occupation, trade, or profession within the corporate limits of the Borough of Pottstown.

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.A., Subchapter F.

MANAGER – the Borough Manager of the Borough of Pottstown.

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, Part I, Subpart B, Article V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

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

NONRESIDENT – a person, partnership, association or other entity domiciled outside the municipality.

OCCUPATION – any trade, profession, business, or undertaking of any type, kind, or character, including services, domestic or otherwise, carried on or performed within the corporate limits of the Borough of Pottstown, for which compensation is charged or received, whether by means of salary, wages, commissions, or fees for services rendered.

PRECEDING YEAR – the calendar year before the current year.

PRIVILEGE – the exercising or carrying on, by any means or manner, of any occupation whatsoever, as herein defined.

TAX – a local services tax in the amount of \$52 per year levied on the engagement of any occupation, as heretofore defined, within the corporate limits of the Borough of Pottstown.

TAXPAYER – any natural person liable for the tax levied by this Part.

(Ord. 1229, 2/9/1970, §2; as amended by Ord. 1990, 1/10/2005, §2b; by Ord. 2013, 12/29/2005, §1a; and by Ord. 2046, 12/10/2007)

§403. Levy of Tax.

The Borough of Pottstown hereby levies and imposes on every individual engaging in an occupation within the jurisdictional limits of the Borough of Pottstown a local services tax, beginning the first day of January 2008 and continuing on a calendar basis annually thereafter until modified or repealed by a subsequent ordinance.

(Ord. 1229, 2/9/1970, §3; as amended by Ord. 2046, 12/10/2007)

§404. Amount of Tax; Exemptions.

1. Beginning on the first day of January 2008, each engagement in an occupation subject to this tax, as set forth in §402 hereof, shall be subject to the payment of a local services tax of \$52, to be paid by each individual exercising the privilege in engaging in such occupation, as hereinbefore defined, within the corporate limits of the Borough of Pottstown. The Pottstown Borough Finance Office is empowered to prescribe rules and regulations reasonably necessary to carry out the provisions of this Section and to determine income levels of individuals subject to this tax.
2. This tax shall not be imposed on the following persons:
 - A. Any person who served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic, or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration, or its successor, to be a total 100% or permanent disability.
 - B. Any person who serves as a member of a reserve component of the Armed Forces of the United States and is called to active duty at any time during the calendar year. For purposes of this subsection, "reserve component of the Armed Forces" shall mean the United States Army Reserve, United States Naval Reserve, United States Marine Corps Reserve, United States

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Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard, or the Pennsylvania International Guard.

- C. Any person whose total earned income and/or net profits from all sources within the Borough of Pottstown is less than \$12,000 for the calendar year in which the local services tax is levied and who files an exemption certificate with the collector in the manner set forth in §418.

(Ord. 1229, 2/9/1970, §4; as amended by Ord. 1990, 1/10/2005, §2c; by Ord. 2013, 12/29/2005, §1b; and by Ord. 2046, 12/10/2007)

§405. Payment of Tax.

1. Said tax shall be paid to the collector and shall be due and payable in accordance with the following schedule:

Taxes Due and Withheld	Reports Due and Payable
January 1 – March 31	April 30
April 1 – June 30	July 31
July 1 – September 30	October 31
October 1 – December 31	January 31

2. If the said tax is not paid within 30 days after due dates specified in Subsection 1, a penalty of 5% shall be added thereto.

(Ord. 1229, 2/9/1970, §5; as amended by Ord. 2046, 12/10/2007)

§406. Duty of Employers.

Each employer within the Borough of Pottstown is hereby charged with the duty of collecting and paying over to the collector, from each employee engaged in his services, the local services tax of \$52 per year upon each individual employed by said employer who performs services on behalf of said employer within the geographical limits of the Borough of Pottstown or who is engaged in an occupation, as defined in §402 of this Part, for the benefit of said employer or in the service of said employer within the geographical limits of the Borough of Pottstown. As to each employee employed for any length of time during any payroll period of an employer during the calendar year, each employer shall deduct a pro-rata share of the tax from the earned income payable to the employee with respect to such payroll period. The pro-rata share of the tax assessed on an employee for a payroll period shall be determined by dividing the rate of the tax (\$52) levied for the calendar year by the number of payroll periods established by the employer for the calendar year. Each employer shall make a return in payment of said tax and is authorized to deduct the said local services tax at rates hereby imposed from each employee in his service, whether said employee is paid by salary, wages, or commission.

Each employer within the Borough of Pottstown shall prepare and file a return showing a computation of the tax on a form to be obtained from the tax collector. Each employer, in filing his return and, making payment by deduction from the salary, wages, commissions, or other compensation payable by him to his employees, shall be entitled to retain a commission, calculated at 2%, on the gross tax due and payable, by each individual, provided that such taxes are collected and paid over by the employer on or before the due dates as listed in §405 of this Part. It is further provided that if the employer fails to file said return and pay said tax but makes collection thereof from the salary, wages, or commissions paid by him to said employee, the employer shall be responsible for the payment of tax in full without any deductions or commissions as though the tax had originally been levied against him.

(Ord. 1229, 2/9/1970, §6; as amended by Ord. 1990, 1/10/2005, §2d; by Ord. 2013, 12/29/2005, §1c; by Ord. 2027, 8/14/2006; and by Ord. 2046, 12/10/2007)

§407. Individuals Engaged in More than One Occupation.

Each individual who shall have more than one occupation within the Borough of Pottstown shall be subject to the payment of the annual local services tax solely upon the privilege of engaging in his principal occupation, and his principal occupation employer shall deliver to him a certificate of payment, in a form to be furnished to the employer by the collector, certifying to any other employer of such individual that said local services tax has been paid by the employee to the employer and, in turn, remitted by said employer to the collector. Any employer receiving said certificate of payment of the tax by another employer by deduction from the said individual shall not deduct or collect the local services tax imposed by this Part.

(Ord. 1229, 2/9/1970, §7; as amended by Ord. 2046, 12/10/2007)

§408. Employer's Date of Determination of Liability for Tax.

Each employer in the Borough of Pottstown shall use his employment records as of January 1, 2008, and January 1 of each calendar year thereafter, in determining the number of employees from whom the said local services tax shall be deducted and paid over the tax collector. Each employer who engages the services of an individual in an occupation to be performed in the Borough of Pottstown on or after January 1, 2008, and January 1 of each calendar year thereafter, shall require said employee to furnish to him a certificate of payment from the tax collector showing that the local services tax has theretofore been paid. In the event that such employee has not previously paid his local services tax, the employer shall deduct same within 30 days after the employee is hired and remit it to the tax collector on or before the due dates listed in §405, Subsection 1.

(Ord. 1229, 2/9/1970, §8; as amended by Ord. 2046, 12/10/2007)

§409. Self-Employed Individuals and Employers Beyond the Corporate Limits of the Borough of Pottstown.

Each self-employed individual in the Borough of Pottstown who performs any services of any kind or any type within the corporate limits of the Borough of Pottstown, whether the same be regarded either as a professional or as a business, shall be required to pay a local services tax of \$52 for himself and shall be further required to deduct and pay over, in the manner hereinbefore set forth in §406, an annual local services tax of \$52 for every individual in his employ who is engaged in the performance of any occupation or profession for him within the Borough of Pottstown. Any individual engaged in any occupation within the Borough of Pottstown who is the employee of another and who is subject to this tax, as hereinbefore defined, shall be liable for the payment of the local services tax of \$52 for himself and shall be treated and regarded as a self-employed individual if the location of the business of his employer is beyond the corporate limits of the Borough of Pottstown. Each employer whose business is located beyond the corporate limits of the Borough of Pottstown shall be required to furnish to the collector a list of all individuals employed by him who exercise the privilege of engaging in any occupation of any type or character within the corporate limits of the Borough of Pottstown during the fiscal year.

(Ord. 1229, 2/9/1970, §9; as amended by Ord. 2013, 12/29/2005, §1c; and by Ord. 2046, 12/10/2007)

§410. Domestics.

Where a person is engaged in domestic services for others and has more than one employee in the performance of such services, the employer by whom such domestic is employed on January 1, 2008, and January 1 of each calendar year thereafter, shall be responsible for the collection and payment of the annual local services tax for such domestics to the collector; and in the event the domestic is not employed by any person on January 1, 2008, and January 1 of each calendar year thereafter, the said responsibility for deducting and payment over to the Borough of Pottstown of the local services tax shall rest upon the employer of the domestic on the next succeeding date following January 1, 2008, and January 1 of each calendar year thereafter, and said employer shall furnish to said domestic employee a certificate of payment of said local services tax to be exhibited to all other employers of said domestic; and producing of said certificate to such other employers shall excuse them from the deduction of any further local services tax from said domestic employee for the year.

(Ord. 1229, 2/9/1970, §10; as amended by Ord. 2046, 12/10/2007)

§411. Tax in Addition to All Other Taxes.

The tax imposed by this Part shall be in addition to all other taxes of any kind or nature heretofore or hereafter levied by the Borough of Pottstown.

(Ord. 1229, 2/9/1970, §11; as amended by Ord. 2046, 12/10/2007)

§412. Powers and Duties of the Collector.

1. It shall be the duty of the collector to collect and receive the taxes, fines, or penalties imposed by this Part. It shall also be his duty to keep a record showing the amount received by him from each self-employed person paying the tax and the date of such receipt; it further shall be his duty to keep a record showing the amount received by him from any employer paying the tax on behalf of his employees by the deduction made by such employer from the salaries, wages, commissions, or other forms of compensation.
2. The collector is hereby charged with the administration and enforcement of the provisions of this Part and, together with the Manager, 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 a provision for the examination of the payroll records of any employer within the Borough of Pottstown; and further for the re-examination and correction of any returns made in compliance with this Part and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the collector shall have the right to appeal as in other cases provided.
3. The collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by any employer on behalf of his employees or, if no return was made, to ascertain the local services tax due. Each employer in the Borough of Pottstown is hereby directed and required to give to the collector the means, facilities, and opportunities for such examinations and investigations as are hereby authorized.

(Ord. 1229, 2/9/1970, §12; as amended by Ord. 2046, 12/10/2007)

§413. Employment in More than One Political Subdivision.

1. In the event any person subject to the payment of this tax is employed in more than one political subdivision during the year which levies a local services tax, the priority of claim to collect such local services tax shall, in accordance with Act 511, be in the following order:
 - A. The political subdivision in which the person maintains his principal office or is principally employed.
 - B. The political subdivision in which the person resides and works, if such tax is levied by that political subdivision.

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- C. The political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.
2. The place of employment shall be determined as of the date the taxpayer first becomes subject to the tax during the calendar year.

(Ord. 1229, 2/9/1970, §3; as amended by Ord. 2046, 12/10/2007)

§414. Suits for Collection.

1. In the event that any tax under this Part remains due and unpaid for 60 days after the due dates set forth in §405, Subsection 1, the collector may sue for the recovery of any such tax due and unpaid under this Part, together with interest and penalty.
2. If, for any reason, the tax is not paid when due, interest at the rate of 6% on the amount of said tax shall be calculated, beginning 30 days after the due dates above set forth, together with the penalty set forth in §405, Subsection 2. Where suit is brought for the recovery of any local services tax, the individual liable therefor shall, in addition, be responsible and liable for the cost of collection and the interest and penalties therein imposed.

(Ord. 1229, 2/9/1970, §14; as amended by Ord. 2046, 12/10/2007)

§415. Fines and Penalties.

Whoever makes any false or untrue statement on any return required by this Part or who refuses inspection of his books, records or accounts in his custody or control in order to determine the number of employees subject to the local services tax who are in his employment or whoever fails and refuses to file any return required by this Part shall, upon conviction, be sentenced to pay a fine of not more than \$600 for each offense and, in default of payment of said fine, to be imprisoned for a period not exceeding 30 days, for each offense.

(Ord. 1229, 2/9/1970, §15; as amended by Ord. 1735, 4/12/1993; and by Ord. 2046, 12/10/2007)

§416. Distress and Sale of Goods.

The tax collector shall have power, in case of the neglect or refusal of any person, co-partnership, association, or corporation to make payment of the amount of the tax due by him, after 60 days from the date of the tax notice, to levy the amount of said tax, any penalty due thereon and costs, not exceeding costs and charges allowed constables for similar services, by distress and sale of the goods and chattels of such delinquent, wher

ever situate or found, upon giving at least 10 days' public notice of such sale by posting 10 written or printed notices and by one advertisement in a newspaper of general circulation published in the County. The tax collector shall have all powers regarding the collection of delinquent local services taxes as are set forth in the Local Tax Enabling Act.

(Ord. 1229, 2/9/1970, §16; as amended by Ord. 2046, 12/10/2007)

§417. Saving Clause.

1. Nothing contained in this Part shall be construed to empower the Borough of Pottstown to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Borough of Pottstown 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 declared by any court of competent jurisdiction to be in violation of the Constitution of the United States or 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. 1229, 2/9/1970, §18; as amended by Ord. 2046, 12/10/2007)

§418. Up-Front Exemption from Tax.

1. In order to receive an up-front exemption from the local services tax, an employee must file an annual up-front exemption form with the Borough of Pottstown and the employee's employer. The exemption certificate must verify that the employee reasonably expects to receive earned income and net profits of less than \$12,000 from all sources within the Borough of Pottstown for the calendar year for which the exemption certificate is filed. A copy of the employee's last pay stubs or W-2 forms from employment within the Borough of Pottstown for the year prior to the calendar year for which the employee is requesting an exemption must be attached to the exemption certificate. Employers must make up-front exemption forms readily available to all employees at all times and provide new employees with the forms at the time of hiring.
 - A. Upon receipt of an up-front exemption form and until otherwise instructed by the Borough of Pottstown employers must stop withholding the local services tax for the specific calendar year from employees for whom the exemption applies.
 - B. Employers must restart withholding the local services tax from an employee who files an exemption certificate in the following circumstances:
 - (1) If instructed to do so by the Borough of Pottstown;

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- (2) If notified by the employee that they are no longer eligible for the exemption; or
 - (3) If the employer. pays the employee more than \$12,000 for the calendar year.
- C. Employers restart withholding of the local services tax by withholding:
 - (1) A catch-up lump-sum tax equal to the amount of tax that was not withheld from the employee as a result of the exemption; and
 - (2) The same amount per payroll period that is withheld from other employees.
2. Except for monitoring when an employee who has filed an exemption certificate earns more than \$12,000, nothing in this Section shall require employers to investigate exemptions, monitor tax exemption eligibility, or exempt an employee from the local services tax.

(As added by Ord. 2046, 12/10/2007)

Part 5

Penalty; Delinquent Taxes

§501. Penalty for Unpaid Per Capita and Property Taxes.

All taxpayers who fail to make payment of any taxes charged against them by the Borough of Pottstown for four (4) months after the date of "the tax notice" provided such notice is dated October 1, 1976, or thereafter shall be charged a penalty of ten (10%) percent of his delinquent taxes which penalty shall be added to the taxes and collected by the Tax Collector.

(Res. 12/13/1976)

§502. Costs of Collection on Delinquent Taxes.

1. Pottstown Borough approves and adopts the Cost of Collection Schedule attached hereto and made a part of this Part,¹ to be imposed by Berkheimer upon any taxpayer whose taxes are or become delinquent and/or remain due and unpaid.
2. Berkheimer is authorized to retain said Costs of Collection set forth in the attached schedule incurred in recovering delinquent taxes and assessed to the delinquent taxpayer as allowed by law.

(Res. 2005-16, 5/9/2005)

¹ Editor's Note: The Schedule is on file in the office of the Borough Secretary.

Part 6

Off-Premises Sign Tax

§601. Definitions.

BUSINESS SIGN – a sign that directs attention to a business, profession, activity, commodity, service, product price or entertainment conducted, sold or offered upon the premises where such sign is located or within the building to which such sign is affixed.

CONSTRUCTION SIGN – a sign identifying individuals or companies involved in design, construction, wrecking, financing or development when placed upon the premises where work is under construction, but only for the duration of construction or wrecking.

DIRECTORY SIGN – a sign which indicates the name and/or address of the occupant, the address of the premises, and/or identification of any legal business or occupation which may exist at the premises.

GROSS SURFACE AREA – the entire area within a single continuous perimeter composed of a single face enclosing the extreme limits of characters, lettering, illustrations, ornamentations or other figures, together with a material or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Structural supports bearing no sign copy shall not be included in gross surface area; however, if any portion of the required structural supports become enclosed for decorative or architectural purposes, that portion will be included in the total gross surface area of the sign.

LOT – a designated parcel, tract or area of land established by plot, subdivision or otherwise permitted by law to be used, developed or built upon as a single unit under single ownership or control

OFF-PREMISES SIGN – a sign visible from a public way that directs attention to a business, commodity, service, entertainment, attraction or subject sold, offered or existing elsewhere than upon the same lot where such sign is displayed. The term "off-premises sign" shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner thereof to others for purpose of conveying a commercial or noncommercial message.

REAL ESTATE SIGN – a sign which is used to offer for sale, lease or rent that premises upon which such sign is placed.

(Ord. 1839, 12/9/1996, §1)

§602. License Required.

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The owner of every lot upon which an off-premises sign is located within the Borough of Pottstown shall be responsible to obtain an annual off-premises sign license for every off-premises sign located thereon. The term for the off-premises sign license shall be from January 1 to December 31. Every owner shall be responsible to obtain the necessary license(s) by January 1 of every year.

(Ord. 1839, 12/9/1996, §1)

§603. License Application.

Application for an off-premises sign license shall be made upon a form provided by the Borough of Pottstown. The application form shall require the following information:

- A. The name and address of the owner of the lot upon which the off-premises sign is located.
- B. When there is more than one (1) sign on a lot, a description of the off-premises sign.
- C. The gross surface area of the sign.
- D. The name and address of the sign operator, if any.
- E. The address of or description of the location of the lot where the off-premises sign is located.

The Borough of Pottstown shall make the application form available to lot owners, but responsibility for acquiring the application form and obtaining an off-premises sign license by January 1 remains with the lot owner. A separate application form must be submitted for every off-premises sign.

(Ord. 1839, 12/9/1996, §1)

§604. Payment of Tax.

With the annual application for an off-premises sign license, the owner shall pay the full amount of the off-premises sign tax, which shall be calculated by multiplying by two dollars (\$2.00) the gross surface area, measured in square feet, of the off-premises sign. The term of the annual license shall commence on January 1 and end on December 31 of that year. If a new off-premises sign is erected between January 1 and March 31, inclusive, the full amount of the tax for that year shall be paid. If a new off-premises sign is erected between April 1 and December 31, inclusive, one-half (1/2) of the tax shall be paid.

(Ord. 1839, 12/9/1996, §1)

§605. Exemptions.

Business signs, construction signs, directory signs, real estate signs and political signs, as defined in Part 11 of Chapter 27, Zoning, of the Borough of Pottstown Code of Ordinances, are exempt from the provisions of this Part.

(Ord. 1839, 12/9/1996, §1)

§606. Enforcement, Notification and Penalties.

1. The Code Enforcement Office of the Borough of Pottstown shall enforce the provisions of this Part.
2. When an owner fails to properly submit an application by January 1, or within fourteen (14) days of erecting a new off-premises sign, the Code Enforcement Office shall notify the owner by certified mail that the license application must be submitted within thirty (30) days. If the application is not submitted within thirty (30) days, a summary citation shall be filed with the District Justice. Upon conviction thereof, the owner shall be sentenced to pay a fine of not more than six hundred dollars (\$600.00), together with costs of prosecution. Every off-premises sign for which a proper application has not been submitted shall be considered a separate offense.

(Ord. 1839, 12/9/1996, §1)

Part 7

Exempting Real Property and Earned Income and Net Profits Taxes within a Specific Area

§701. Application of Provisions.

Effective as of January 1, 1999, contingent only upon Department of Community and Economic Development's approval of the application for the proposed Keystone Opportunity Zone, the following provisions shall apply:

- A. Real property tax in the proposed Keystone Opportunity Zone is exempt in accordance with the provisions and limitations hereinafter set forth within the boundaries of the proposed Keystone Opportunity Zone (which properties are set forth in Exhibit A, attached hereto) in accordance with the Act for a period of twelve (12) years, commencing January 1, 1999.
- B. The exemption shall be one hundred (100) percent of the real property taxation on the assessed valuation of the property within the proposed Keystone Opportunity Zone.
- C. The Borough of Pottstown further waives its tax on earned income received by a resident of the proposed Keystone Opportunity Zone and/or the tax on net profits of a qualified business received by a resident or nonresident of the proposed Keystone Opportunity Zone attributable to business activity conducted within the proposed Keystone Opportunity Zone which is set forth in Ord. 1203, adopted December 30, 1968, as amended [Chapter 24, Part 2].
- D. The provisions of the Act not herein enumerated shall, nevertheless, be incorporated as part of this Part by reference.
- E. To the extent that either or both Montgomery County and Pottstown School District (the other two (2) taxing bodies) establish defined geographic and political boundaries for a Keystone Opportunity Zone different from the proposed Keystone Opportunity Zone, this Part shall be interpreted only to apply to those portions of the defined geographic and political boundaries as set forth in the resolutions and ordinances of the other two (2) taxing bodies which are also included within the proposed Keystone Opportunity Zone, the intent being that the action of all taxing bodies will encompass the same defined geographic and political boundaries and that no further ordinance need be adopted by this body to confirm the proposed Keystone Opportunity Zone to that other two (2) taxing bodies.
- F. This Part shall become effective immediately, contingent and conditioned only upon the prior approval of Department of Community and Economic

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Development of the application with respect to the proposed Keystone Opportunity Zone.

(Ord. 1884, 3/8/1999)

Part 8

Schedule of Attorney's Fees

§801. Administrative Charge.

Any administrative fee incurred for mailing the notice of delinquency, not to exceed fifty dollars (\$50.00), being a cost of collection under the Municipal Claims and Tax Liens Act, shall be assessed.

(Ord. 1994, 2/14/2005, §1)

§802. Interest.

Interest will be assessed upon all delinquent real estate taxes at a rate of ten percent (10%) per annum.

(Ord. 1994, 2/14/2005, §2)

§803. Assessment of Legal Fees.

1. In accordance with §1 of the Municipal Claims and Tax Liens Act, the Municipality hereby approves that the collection of delinquent real estate taxes shall be compensated for attorneys fees in accordance with the fee schedule set forth below:

Legal Services	Fee for Services
Initial review and sending first demand letter	\$160.00
File lien and mail second demand letter	\$175.00
Prepare Writ of Scire Macias	\$175.00
Obtain re-issued writ	\$30.00
Prepare and mail letter under Pa. R.C.P. §237.1	\$30.00
Prepare motion for alternate service	\$175.00
Prepare default judgment	\$175.00
Prepare Writ of Execution	\$800.00
Attendance at sale; review schedule of distribution and resolve distribution. issues	\$400.00
Continue sheriff sale	\$50.00
Petition to assess damages	\$50.00

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Legal Services	Fee for Services
Petition for free and clear sale	\$400.00
Prepare bankruptcy proof of claim	\$100.00
Handling fee for returned check	\$30.00
Handling fee to issue refund check	\$20.00
Bookkeeping fee for payment an of more than three payments	\$50.00
Services not covered above	At an hourly rate between \$60.00-\$225.00 per hour

2. The amount of fees determined as set forth above are fair and reasonable for the services to be provided and shall be added to the Borough of Pottstown's claim in each account.
3. There shall be added to the above amounts the reasonable out-of-pocket charges, costs, expenses, commissions and fees such as but not limited to, postage, title searches, prothonotary fees and sheriff fees.
4. The amount charges, expenses, commissions and fees determined as set forth above shall be added to the Borough of Pottstown's claim in each Account.

(Ord. 1994, 2/14/2005, §3)

§804. Collection Procedures.

The following collection procedures are hereby established in accordance with the Act:

- A. At least thirty (30) days prior to assessing or imposing attorney fees in connection with the collection of an account, the Borough of Pottstown shall mail or cause to be mailed, by certified mail, return receipt requested, a notice of such intention to the taxpayer or other entity liable for the account (the "property owner").
- B. If the certified mail notice is undelivered, then, at least ten (10) days prior to the assessing or imposing such attorney fees, the Borough of Pottstown shall mail or cause to be mailed, by first class mail, a second notice to the property owner.
- C. All notices required by this Part shall be mailed to the property owner's last known post office address as recorded in the records or other information of the Borough of Pottstown, or such other address as it may be able to obtain from the County Office of Assessment and Revision of Taxes.

- D. Each notice as described above shall include the following:
- (1) The type of tax or other charge, the date it became due and the amount owed, including penalty and interest;
 - (2) A statement of the Borough of Pottstown's intent to impose or assess attorney fees within thirty (30) days after the mailing of the first notice, or within ten (10) days after the mailing of the second notice;
 - (3) The manner in which the assessment or imposition of attorney fees may be avoided by payment of the account; and
 - (4) The place of payment for accounts and the name and telephone number of the Borough of Pottstown representative designated as responsible for collection matters.

(Ord. 1994, 2/14/2005, §4)

§805. Related Action.

The proper officials of the Borough of Pottstown are hereby authorized and empowered to take such additional action as they may deem necessary or appropriate to implement this Part.

(Ord. 1994, 2/14/2005, §5)