

CHAPTER 24
TAXATION; SPECIAL

Part 1

Business Privilege Tax

- §24-101. Short Title**
- §24-102. Definitions**
- §24-103. Levy of Tax**
- §24-104. Returns**
- §24-105. License**
- §24-106. Penalty**
- §24-107. Continuing Violations**
- §24-108. Duties of the Tax Collector**
- §24-109. Confidential Nature of Returns, Etc.**
- §24-110. Suit on Collection and Penalty**

Part 2

Realty Transfer Tax

- §24-201. Short Title**
- §24-202. Authority**
- §24-203. Definitions**
- §24-204. Imposition of Tax; Interest**
- §24-205. Exempt Parties**
- §24-206. Excluded Transactions**
- §24-207. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof**
- §24-208. Acquired Company**
- §24-209. Credits Against Tax**
- §24-210. Extension of Lease**
- §24-211. Proceeds of Judicial Sale**
- §24-212. Duties of Recorder of Deeds**
- §24-213. Statement of Value**
- §24-214. Civil Penalties**
- §24-215. Lien**
- §24-216. Enforcement**
- §24-217. Regulations**

Part 3

Earned Income Tax

- §24-301. Definitions
- §24-302. Imposition of Tax
- §24-303. Declaration of Payment and Tax
- §24-304. Withholding and Remittance
- §24-305. Powers and Duties of Tax Officer
- §24-306. Compensation of Income Tax Officer
- §24-307. Applicability
- §24-308. Effective Date, Repealer, Conflict

Part 4

Occupation Privilege Tax

- §24-401. Definitions
- §24-402. Levy
- §24-403. Amount of Tax
- §24-404. Duty of Employers
- §24-405. Returns
- §24-406. Dates for Determining Tax Liability and Payment
- §24-407. Individuals Engaged in More Than One Occupation
- §24-408. Self-Employed Individuals
- §24-409. Employers and Self-Employed Individuals Residing Beyond the Limits of the Borough of Coplay
- §24-410. Administration of Tax
- §24-411. Suits for Collection
- §24-412. Fine and Penalty

Part 5

Per Capita Tax

- §24-501. Per Capita Tax Levied
- §24-502. Collection of Per Capita Tax
- §24-503. Tax Collector's Bond
- §24-504. Tax Duplicate Constitutes Warrant for Collection
- §24-505. Tax Collector's Expenses and Compensation

- §24-506. Notice to Taxpayers
- §24-507. Additions of Names to Tax Duplicate
- §24-508. Collection by Distress and Sale of Personal Property
- §24-509. Collection by Wage Attachment
- §24-510. Tax Collector's Accounts; Remittance of Tax to Borough
- §24-511. Discounts and Penalties
- §24-512. Local Tax Collection Law Applicable
- §24-513. Authority for Enactment

Part 6

Special Head Tax

- §24-601. Special Head Tax Levied
- §24-602. Collection of Special Head Tax
- §24-603. Tax Collector's Bond
- §24-604. Tax Duplicate Constitutes Warrant for Collection
- §24-605. Tax Collector's Expenses and Companies
- §24-606. Notice to Taxpayers
- §24-607. Addition of Names to Tax Duplicate
- §24-608. Collection by Distress and Sale of Personal Property
- §24-609. Collection by Wage Attachment
- §24-610. Tax Collector's Accounts; Remittance of Taxes to Borough Treasurer
- §24-611. Discounts and Penalties
- §24-612. Powers, Duties and Obligations of Tax Collector
- §24-613. Legal Authority; Duration

Part 7

Local Taxpayers Bill of Rights

- §24-701. Definitions
- §24-702. Disclosure Statement
- §24-703. Requests for Information
- §24-704. Administrative Appeals
- §24-705. Compliance with the Act

Appendix A, Taxpayer Bill of Rights Disclosure Statement

Part 1

Business Privilege Tax

§24-101. Short Title.

This Part 1 shall be known as the "Borough of Coplay Business Privilege Tax Ordinance."

(Ord. 608, 5/2/1987, §1)

§24-102. Definitions.

The following words and phrases, when used in this Part 1, shall have the meanings ascribed to this in this §24-102, except where the context clearly indicates a different meaning:

BOROUGH — the Borough of Coplay.

BUSINESS — any activity carried on or exercised for gain or profit in the Borough of Coplay, including, but not limited to, the sale of merchandise or other tangible personalty or the performance of services.

CALENDAR YEAR — the period from January 1 to December 31 inclusive.

FISCAL YEAR — the period from July 1 to June 30 inclusive.

LICENSE YEAR — the period from January 1 to December 31 inclusive.

PERSON — any individual, entity, partnership, limited partnership, association, firm or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof. The masculine shall be interpreted as including the feminine and the neuter, and vice versa.

TAX COLLECTOR — the person duly elected as the Tax Collector for the Borough of Coplay or in the absence thereof, a person appointed by the Borough Council to collect the tax imposed by this Part 1.

TAX YEAR — the period from January 1 to December 31 inclusive.

TAXPAYER — a person subject to the payment of the tax imposed by this Part 1.

WHOLESALE DEALER — any person who sells to dealers in, or vendors of goods, wares and merchandise, and to no other persons.

TAXATION; SPECIAL

(Ord. 608, 5/12/1987, §2)

§24-103. Levy of Tax.

There is hereby levied for the tax year 1987 and annually thereafter a tax for general revenue purposes on the privilege of doing business, as herein defined, in the Borough, as follows:

1. **Rate and Basis of Tax.** The rate of the tax on each and every dollar of the whole or gross volume of business transacted within the territorial limits of the Borough shall, except in the case of wholesale dealers, be 1 1/2 mills.
2. **Computation of Volume of Business.**
 - A. Every person subject to the payment of the tax hereby imposed who has commenced his business prior to the full calendar year prior to the tax period or tax year shall compute his annual estimated gross volume of business upon the actual gross amount of business transacted by him during said immediately preceding calendar year.
 - B. Every person subject to the payment of this tax hereby imposed who has commenced or who commences his business before the beginning of the tax period or tax year but after the beginning of the full calendar year prior to the tax period or tax year, shall compute his estimated annual gross volume of business for the tax year upon the gross volume of business transacted by him during the prior calendar year, taking the monthly average during said period and multiplying the same by 12. In the event that he shall be in business fewer than 90 days in the prior calendar year, he shall be permitted to use sufficient days in the calendar year in which the tax year begins to equal 90 successive days after commencement of business, to take a monthly average thereon, and to multiply the average by 12.
 - C. Every person subject to the payment of the tax hereby imposed who has commenced or commences his business subsequent to the beginning of the tax period or tax year, if there shall be less than three months from the commencement of his business to the end of the tax year, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the tax year; if there shall be more than three months from the commencement of his business the end of the tax year he shall compute his estimated gross volume of business to the end of the tax year, taking the monthly average during the first three months of business and multiplying the same by the number of months from the commencement of business to the end of the tax year.
 - D. Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal or itinerant by nature, shall compute this estimated gross amount of business to be transacted by him for the period

said person engaged in such temporary, seasonal or itinerant business within the Borough of Coplay by a method to be determined by the Tax Collector.

- E. The Tax Collector is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Borough in any case where the taxpayer disputes the validity or 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 §24-103 shall be applicable to cases in which the facts are similar to those in a case litigated in a court of competent jurisdiction.

3. Persons, Business, and Receipt Exempted.

A. Persons and Businesses.

- (1) No such tax shall be assessed and collected from persons employed for a wage or salary, non-profit corporations or associations organized for religious, charitable or educational purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania and the business of any political subdivision, or of any authority created or organized under and pursuant to any act of assembly.
- (2) No such tax shall be assessed and collected on a privilege, transaction, subject, or occupation which is subject to a State tax or license fee.

- B. Utilities. No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission; or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.

- C. State Tax on Tangible Property. No such tax shall be assessed and collected on the privilege of employing such tangible property as is subject to a State tax except on sales of admission to places of amusement or on sales or other transfers of title or possession of property.

- D. Production and Manufacture. No such tax shall be assessed and collected on goods, articles, and products, or on by-products of manufacture, or on minerals, timber, natural resources, and farm products, manufactured, produced, or grown in the Borough, or on the preparation or processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources or farm products, by manufacturers, by producers, and by farmers with respect to the goods, articles and products of their own manufacture, production of growth, or any privilege, act or trans-

TAXATION; SPECIAL

action relating to the business of processing by-products of manufacture, or on the transportation, loading, unloading or dumping or storage of such goods, articles, products or by-products.

- E. Incidental Use of Residential Property. No such tax or fee shall be assessed and collected on rental received by an owner from a building originally erected as a private dwelling house and occupied as a residence by such owner during the tax year.
4. Determination of Gross or Whole Volume of Business. Gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made and/or services rendered, subject only to the following allowable deductions and exemptions:
- A. The dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares, and merchandise taken by any dealer as trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.
 - B. Refunds, credits, or allowances given by a taxpayer to a purchases on account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned.
 - C. Any commissions paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker.
 - D. Bad debts, where the deduction is also taken in the same year for Federal Income Taxation purposes.
 - E. Taxes collected as agent for the United States of America, Commonwealth of Pennsylvania or the Borough or School district.
5. Partial Exemptions. Where gross or whole volume of business in its entirety cannot be subjected to the tax imposed by this Part 1 by reason of the provisions of the Constitution of the United States, or any other provisions of law, the Tax Collector shall establish rules and regulations and methods of allocation and evaluation so that only that part of the gross or whole volume of business which is properly attributable and allowable to doing business in the Borough shall be taxed hereunder.
6. Rate When Same Tax is Imposed by Two Taxing Bodies. If any person is liable for the same tax and license on the same subject imposed under the Local Tax Enabling Act of 1965, December 31, Pamphlet Law 1257 and its amendments, to the Borough and one or more other political subdivisions of the State, then the tax shall be shared equitably with such other political subdivisions as is agreed or as is required by law.

7. Records. The taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep books and records of his business so as to show clearly, accurately, and separately the amount of such sales and services as are excluded from the tax and the amounts of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided.

(Ord. 608, 5/12/1987, §3)

§24-104. 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 1 who commenced his business on or before January 1 of the full calendar year previous to the beginning of any tax period or tax year shall on or before the first day of June of the tax period or tax year file with the Tax Collector for 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 preceding calendar year, and the amount of the tax due.
3. Every person subject to the tax imposed by this Part 1 who has commenced his business before the beginning of the tax period or tax year but after January 1 of the full calendar year previous to the beginning of the tax period or tax year shall on or before the first day of June of the tax period or tax 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 estimated gross amount of business transacted by him as calculated under §24-101(2)(B) hereof and the amount of tax due.
4. Every person subject to the tax imposed by this Part 1 who commences business subsequent to the beginning of any tax period or tax year shall within 100 days from the date of commencing 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 estimated or actual gross amount of business transacted by him as calculated under §24-103(2)(B) hereof and the amount of tax due.
5. Every person subject to the payment of the tax imposed by this Part 1 who engages in a business temporary, seasonal or itinerant by its nature shall at the time application is made for the Business Privilege License file a return with the Tax Collector setting forth his name, his business, his business address and such information as may be necessary in arriving at the estimated gross amount of business to be transacted by him as calculated in accordance with §24-103(2)(D).
6. Any person going out of or ceasing to do business shall, within seven days from the date of ceasing to do business, file a return with the Tax Collector showing the

TAXATION; SPECIAL

actual gross volume of business conducted and done by such person during that tax year in which said person ceased doing business, and pay the tax due as computed thereon at the rate herein provided for at the time of filing such return. If such tax has been previously paid based upon estimated gross receipts, the taxpayer shall be entitled to a refund of any excess tax paid for the tax year in which business was terminated.

7. Payment of Tax and Penalties for Late Payment. The Business Privilege Tax levied pursuant to this Part 1 shall be due and payable on the date on which the taxpayer is required to file a return as set forth above and if the same is not paid on said date, 5% shall be added thereto, plus an additional 1% per month or fractional part of a month until paid.
8. Receipt. The Tax Collector shall upon payment to him or the Business Privilege Tax, give the person paying the same a receipt therefor.

(Ord. 608, 5/12/1987, §4)

§24-105. License.

After the effective date of this Part 1, any person desiring to conduct, or to continue to conduct any business, as herein defined, within the Borough shall file with the Tax Collector an application for a Business Privilege License and shall pay a fee, as established from time to time by resolution, for the initial license and a fee, as established from time to time by resolution, for each renewal thereof. The license issued shall be conspicuously posted in the place of business for which such license is issued, and shall remain in effect for the license year or fraction of year for which said license was issued. In cases where more than one place of business is conducted, separate licenses are required and must be obtained for each place of business. Any taxpayer who is in default of payment of tax due hereunder shall be refused a license until such tax is paid in full.

(Ord. 608, 5/12/1987, §5; as amended by Ord. 623, 2/13/1990)

§24-106. Penalty.

Any person who shall conduct, transact or engage in any of the businesses subject to the tax imposed by this Part 1, without having first secured a Business Privilege License for the year, or any person who shall fail to file a tax return as required by the provisions of this Part 1, or any person who shall willfully file a false return, shall upon a summary conviction thereof, be required to pay a penalty not to exceed the sum of \$600 or in default of payment thereof, 30 days in jail for any one violation, recoverable with costs.

(Ord. 608, 5/12/1987, §6; as amended by Ord. 623, 2/13/1990)

§24-107. Continuing Violations.

Each day on which such person violates this Part 1 may be considered as a separate violation and subject to separate penalties for each violation provided for in §24-106.

(Ord. 608, 5/12/1987, 7)

§24-108. Duties of the Tax Collector.

1. The Tax Collector is charged with the duties of collecting and receiving the taxes and penalties imposed by this Part 1. It shall be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.
2. The Tax Collector is hereby empowered with the approval of the Borough to prescribe, adopt, and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part 1, including provisions for the examination and correction of returns, payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred, and such other rules and/or regulations as are deemed necessary.
3. In the event the person to be assessed neglects or refuses to make a return, then in such case the Tax Collector shall assess said person or persons on such an amount of whole or gross volume of business as the said Tax Collector deems reasonable and appropriate. In all cases of assessment, the Tax Collector shall give the parties assessed a notice in which shall be stated the trade, business, occupation or class, and the amount of the Business Privilege Tax imposed or levied.
4. The taxpayer shall maintain such records and books of account as will enable him to make a true and accurate return in accordance with the provisions of this Part 1. Such accounts and records must disclose in detail the gross receipts and other data pertaining to the taxpayer's gross volume of business, and must be sufficiently complete to enable the Tax Collector to verify all transactions. The Tax Collector is hereby authorized to examine the books, papers and records of any person or persons subject to or supposed to be subject to the tax imposed by this Part 1, in order to verify the accuracy of the return made, or if no return was made, to ascertain the tax due.
5. Any person aggrieved by any decision of the Tax Collector shall have the right to appeal to the Court of Common Pleas, pursuant to State law.

(Ord. 608, 5/12/1987, §9)

TAXATION; SPECIAL

§24-109. Confidential Nature of Returns, Etc.

Any information gained by the Tax Collector, or any other official, agent or employee of the Borough, from any returns, investigations, hearings, or verifications required or authorized by this Part 1, shall be kept confidential, except as mandated by proper judicial order or as otherwise provided by law.

(Ord. 608, 5/12/1987, §9)

§24-110. Suit on Collection and Penalty.

1. The Tax Collector or his appointed deputies shall have the power in the name of the Borough to institute proceedings against any persons who violate the provisions of this Part 1.
2. If for any reason the tax is not paid when due and suit is brought for the recovery of any such tax, the person liable therefor, shall, in addition, be liable for the costs of collection as well as interest and penalties herein imposed.

(Ord. 608, 5/12/1987, §10)

Part 2

Realty Transfer Tax

§24-201. Short Title.

This Part 2 shall be known as the "Realty Transfer Tax Ordinance of the Borough of Coplay."

(Ord. 605, 12/29/1986, §1)

§24-202. 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 Coplay, 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. Section 8101-D, et seq.

(Ord. 605, 12/29/1986, §2)

§24-203. Definitions.

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

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 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.

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

TAXATION; SPECIAL

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

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

MEMBERS OF THE SAME FAMILY — any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants 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. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both. The term "person" as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

REAL ESTATE –

- A. All lands, tenements or hereditaments within this Borough of Coplay, including without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance or land, but excluding permanently attached machinery and equipment in an industrial plant.
- B. A condominium unit.
- C. A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

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

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

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

TITLE TO REAL ESTATE –

- A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including without limitation an estate in fee simple, life estate, or perpetual leasehold; or
- B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term of renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, including without limitation a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

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

VALUE –

- A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate; provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;
- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration 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 purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania Realty Transfer Tax base calculations;
- C. In the case of an easement or other interest in real estate the value of which is not determined under Subsection (A) or (B), the actual monetary worth of such interest; or

TAXATION; SPECIAL

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

(Ord. 605, 12/29/1986, §3)

§24-204. Imposition of Tax; Interest.

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the times 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 of Deeds whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
3. It is the intent of this Part 2 that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in The Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. Section 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the Borough of Coplay under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be 1/2 the rate and such 1/2 rate shall become effective without any action on the part of the Borough of Coplay provided, however, that the Borough of Coplay 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 1/2 of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under "The Local Tax Enabling Act."
4. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due, shall be added and collected.
5. Any tax imposed under §24-204 that is not paid by the date the tax is due shall bear interest as proscribed 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. 605, 12/29/1986, §4; as amended by Ord. 762, 6/12/2007)

§24-205. Exempt Parties.

The United States, the Commonwealth, or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this Part 2. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

(Ord. 605, 12/29/1986, §5)

§24-206. Excluded Transactions.

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

1. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivision, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property fine adjustments provided said reconveyance is made with one year from the date of condemnation.
2. A document which the Borough of Coplay is prohibited from taxing under the Constitution or statutes of the United States.
3. 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 a sheriff sale or tax claim bureau sale.
4. 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.
5. A transfer of division in kind for no or nominal actual consideration of 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.
6. 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

TAXATION; SPECIAL

child or the spouse of such child, between brother or sister or spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.

7. 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.
8. 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.
9. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
10. A transfer for no or nominal actual consideration from trustee to successor trustee.
11. A transfer (A) for no or nominal actual consideration between principal and agent or straw party; or (B) 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 2.

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

12. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a non-profit 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 2.
13. 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,
14. A transfer from a non-profit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt or the grantee or a transfer to a non-profit industrial development agency or authority.

15. A transfer from a non-profit industrial development agency or authority to a grantee purchasing directly from it, but only if: (A) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and (B) The agency or authority has the full ownership interest in the real estate transferred.
16. 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.
17. 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.
18. A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, (68A Stat. 3, 26 U.S.C. Section 501(c)(3) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
19. 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.
20. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
21. A transaction wherein the tax due is \$1 or less.
22. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

In order to exercise any exclusion provided in this §24-206, 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 each document is not subject to tax under this Part 2.

(Ord. 605, 12/29/1986, §6)

TAXATION; SPECIAL

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

Except as otherwise provided in §24-206, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this Part 2, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(Ord. 605, 12/29/1986, §7)

§24-208. Acquired Company.

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% 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 because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part 2.
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. 605, 12/29/1986, §8)

§24-209. Credits Against Tax.

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

tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

3. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
4. Where there is a conveyance by deed 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 §24-209, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carry-over credit shall be allowed.

(Ord. 605, 12/29/1986, §9)

§24-210. Extension of Lease.

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

(Ord. 605, 12/29/1986, §10)

§24-211. Proceeds of Judicial Sale.

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

(Ord. 605, 12/29/1986, §11)

§24-212. Duties of Recorder of Deeds.

1. As provided in 16 P.S. Section 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 Coplay based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania Realty Transfer Tax, without compensation for the Borough of Coplay.

TAXATION; SPECIAL

2. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.
3. On or before the tenth of each month, the Recorder shall pay over to the Borough of Coplay all local Realty Transfer Taxes collected, less 2% for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania Realty Transfer Tax. The 2% commission shall be paid to the County.
4. Upon a redetermination of the amount of Realty Transfer Tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional Realty Transfer Tax form only when both the State and local amounts and a rerecording or recording fee has been tendered.

(Ord. 605, 12/29/1986, §12)

§24-213. Statement of Value.

Every document lodged with or presented to the Recorder of Deeds for recording, shall set forth therein and as a part of such document the true, full and complete value 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 2. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this §24-213 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 2.

(Ord. 605, 12/29/1986, §13)

§24-214. Civil Penalties.

1. If any part of any underpayment of tax imposed by this Part 2 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 2 on the date prescribed therefore, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is

for not more than one month of fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

(Ord. 605, 12/29/1985, §14)

§24-215. Lien.

The tax imposed by this Part 2 shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, lying being situated, wholly or in part within the boundaries of the Borough of Coplay, 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 2, said lien to begin at the time when the tax under this Part 2 is due and payable, and continue until discharge by payment, or in accordance with the law, and the solicitor is authorized to file a Borough or tax claim in the Court of Common Pleas of Lehigh County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. Section 7101 et seq., its supplements and amendments.

(Ord. 605, 12/29/1986, §15)

§24-216. Enforcement.

All taxes imposed by this Part 2, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

(Ord. 605, 12/29/1986, §16)

§24-217. Regulations.

The President of Borough Council of the Borough of Coplay is charged with enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. Section 01-C et seq. are incorporated into and made a part of this Part 2.

(Ord. 605, 12/29/1986, §17)

Part 3

Earned Income Tax

§24-301. Definitions.

ARTICLE XIII TAX OFFICER—the tax officer authorized by the Borough to collect income taxes levied prior to January 1, 2012.

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.

BUSINESS ENTITY—a sole proprietorship, corporation, joint-stock association or company, partnership, limited partnership, limited liability company, association, business trust, syndicate or other commercial or professional activity organized under the laws of this Commonwealth or any other jurisdiction.

CERTIFIED PUBLIC ACCOUNTANT or PUBLIC ACCOUNTANT—a certified public accountant, public accountant or firm, as provided for in the Act of May 26, 1947 (P.L. 318, No. 140), known as the CPA Law.

CLAIM—a written demand for payment made by a tax officer or tax collection district for income taxes collected by another tax officer or tax collection district.

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. The term shall include an entity which is classified as a corporation for Federal income tax purposes.

CURRENT YEAR—the calendar year for which the tax is levied.

DEPARTMENT—the Department of Community and Economic Development of the Commonwealth.

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 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

TAXATION; SPECIAL

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.

EARNED INCOME AND NET PROFITS TAX—the tax levied by the Borough on earned income and net profits.

EMPLOYER—a person, business entity or other entity, employing one or more persons for a salary, wage, commission or other compensation. The term includes the Commonwealth, a political subdivision and an instrumentality or public authority of either. For purposes of penalties under this Part, the term includes a corporate officer.

INCOME TAX—except as set forth in §511(b) of the Local Tax Enabling Act, P.L. 1257, Act 511 of 1965, as amended (hereinafter the “LTEA”), 53 P.S. §6924.511(b), an earned income and net profits tax, personal income tax or other tax that is assessed on the income of a taxpayer levied by the Borough under the authority of this act or any other act.

JOINT TAX COLLECTION COMMITTEE—an entity formed by two or more tax collection committees for the purpose of income tax collection in more than one tax collection district.

LTEA—the Pennsylvania Local Tax Enabling Act, P.L. 1257, Act 511 of 1965, as amended.

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), 72 P.S. §7303, known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section. The term does not include income under any of the following paragraphs:

A. Income which:

- (1) Is not paid for services provided.
- (2) Is in the nature of earnings from an investment.

B. Income which represents:

- (1) Any gain on the sale of farm machinery.
- (2) Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes.
- (3) Any gain on the sale of other capital assets of a farm.

NONRESIDENT—a person or business domiciled outside the Borough levying the tax.

NONRESIDENT TAX—an income tax levied by the Borough on nonresidents.

OFFICIAL REGISTER—the part of the tax register that includes withholding tax rates as provided in §511(a)(3) of the LTEA, 53 P.S. §6924.511(a)(3).

PERSON—a natural person.

PRECEDING YEAR—the calendar year before the current year.

PRIVATE AGENCY—a business entity or person appointed as a tax officer by a tax collection committee.

PUBLIC AGENCY—any and all public bodies, authorities, agencies, instrumentalities, political subdivisions, intermediate units, councils, boards, commissions or similar governmental entities.

RESIDENT—a person or business domiciled in the Borough levying the tax.

RESIDENT TAX—an income tax levied by the Borough.

RESIDENT TAX OFFICER—the tax officer administering and collecting income taxes for the tax collection district in which a taxpayer is domiciled.

SUCCEEDING YEAR—the calendar year following the current year.

TAX BUREAU—a public nonprofit entity established for the administration and collection of taxes.

TAX COLLECTION COMMITTEE—the committee established to govern the Lehigh Tax Collection District for the purpose of income tax collection. The term shall include a joint tax collection committee.

TAX COLLECTION DISTRICT—the Lehigh Tax Collection District established under §504 of the LTEA.

TAX OFFICER—a political subdivision, public employee, tax bureau, county, except a county of the first class, or private agency which administers and collects income taxes for one or more tax collection districts. 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.

TAX RECORDS—tax returns, supporting schedules, correspondence with auditors or taxpayers, account books and other documents, including electronic records, obtained or created by the tax officer to administer or collect a tax under this Part. The term includes documents required by §509(e) of the LTEA, 53 P.S. §6924.509(e). The term “electronic records” includes data and information inscribed on a tangible medium or stored in an electronic or other medium and which is retrievable in perceivable form.

TAXATION; SPECIAL

TAX REGISTER—a database of all county, municipal and school tax rates available on the internet as provided in §511(a)(1) of the LTEA, 53 P.S. §6924.511(a)(1).

TAXABLE INCOME—includes:

- A. In the case of an earned income and net profits tax, earned income and net profits.
- B. In the case of a personal income tax, income enumerated in §303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, 72 P.S. §7303, as reported to and determined by the Department of Revenue, subject to correction for fraud, evasion or error, as finally determined by the Commonwealth.

TAXPAYER—a person or business required under this Part to file a return of an income tax or to pay an income tax.

WITHHOLDING TAX—an income tax levied by a political subdivision under the authority of this Part or any other ordinance, or any other tax levied by a municipality or school district for which employer withholding may be required under this Part.

(Ord. 795, 9/13/2011, §1)

§24-302. Imposition of Tax.

The tax levied under this Part is a continuation of a tax previously described in the above referenced whereas clauses.¹ The tax previously imposed and continued under

¹Editor's Note: The prefatory material of Ord. 795, 9/13/2011, provided in pertinent part as follows:

“WHEREAS, the Borough of Coplay, Lehigh County, Pennsylvania (hereinafter referred to as the “Borough”) previously enacted its Ordinance No. 477, as amended by Ordinance No. 623 (hereinafter the “Prior Ordinance”), imposing a tax at the rate of one percent (1%) for general revenue purposes on earned income and net profits; and

“WHEREAS, on July 2, 2008, the Pennsylvania Legislature enacted Public Law 197, Act No. 32 (hereinafter “Act 32”), which Act 32, inter alia, provided for the consolidated collection of local income taxes within a tax collection district established in each county under Section 504 of Act 32, 53 P.S. Section 6924.504, for tax years beginning not later than on and after January 1, 2012; and

“WHEREAS, the Borough desires to re-enact, restate and amend in its entirety the Prior Ordinance relating to the imposition and collection of an earned income and net profits tax by the Borough in order to conform with the provisions of Act

this Part is a tax for general revenue purposes of 1% is hereby imposed on the following:

- A. Earned Income, as defined by this Part, received by residents of the Borough, on or after January 1, 2012.
- B. Earned income, as defined by this Part, received by nonresidents of the Borough for work done or services performed or rendered in the Borough on or after January 1, 2012.
- C. Net profits, as defined by this Part, earned on or after January 1, 2012, of businesses, professions, and other activities conducted by residents in the Borough.
- D. Net profits, as defined by this Part, earned on or after January 1, 2012, of businesses, professions, and other activities conducted by nonresidents in the Borough.

The tax levied under Subsection A and B herein shall relate to and be imposed upon salaries, wages, commissions, and other compensation paid by an employer or on its behalf to any person who is employed by or renders services to him. The tax levied under Subsection C and D herein shall relate to and be imposed on the net profits of any business, profession, or enterprise carried on by any person as owner or as proprietor, either individually or in association with some other person or persons.

(Ord. 795, 9/13/2011, §2)

§24-303. Declaration and Payment of Tax.

1. Application.

- A. Income taxes shall be applicable to taxable income earned or received based on the method of accounting used by the taxpayer in the period beginning January 1 of the current year and ending December 31 of the current year, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed.
- B. For a taxpayer whose fiscal year is not a calendar year, the tax officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar year taxpayer.
- C. Partial Domicile. The taxable income subject to tax of a taxpayer who is domiciled in the Borough for only a portion of the tax year shall be an amount equal to the taxpayer's taxable income multiplied by a fraction, the numerator of which is the number of calendar months during the tax year that the

32.”

TAXATION; SPECIAL

individual is domiciled in the Borough and the denominator of which is 12. A taxpayer shall include in the numerator any calendar month during which the taxpayer is domiciled for more than half the calendar month. A day that a taxpayer's domicile changes shall be included as a day the individual is in the new domicile and not the old domicile. If the number of days in the calendar month in which the individual lived in the old and new domiciles are equal, the calendar month shall be included in calculating the number of months in the new domicile.

D. Declaration and Payment. Except as provided in Subsection 1B, taxpayers shall declare and pay income taxes as follows:

- (1) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident tax officer, a final return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the taxable income, the amount of tax paid, the amount of tax that has been withheld under §512 of the LTEA, 53 P.S. §6924.512, and the balance of tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final return, the taxpayer shall pay the resident tax officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment. Every taxpayer is required to file a final return showing the amount of earned income received even if no payment is due and owing.
- (2) Every taxpayer making net profits shall, by April 15 of the current year, make and file with the resident tax officer a declaration of the taxpayer's estimated net profits during the period beginning January 1 and ending December 31 of the current year, and shall pay to the resident tax officer in four equal quarterly installments the tax due on the estimated net profits. The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.
- (3) Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the resident tax officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.
- (4) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident tax officer a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due on the net profits and the total amount of tax paid. At the time of filing the

final return, the taxpayer shall pay to the resident tax officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated tax, elect to make and file with the resident tax officer on or before January 31 of the succeeding year, the final return. Every taxpayer is required to file a return showing the amount of net profits earned or received even if no payment is due and owing.

- (5) The department, in consultation with the Department of Revenue, shall provide by regulation for the 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 required under this subsection anticipates additional net profits not previously declared or has overestimated anticipated net profits.
- (6) Every taxpayer who discontinues business prior to December 31 of the current year, shall, within 30 days after the discontinuance of business, file a final return as required under this paragraph and pay the tax due.
- (7) Every taxpayer who receives any other taxable income not subject to withholding under §512(3) of the LTEA, 53 P.S. §6924.512(3), shall make and file with the resident tax officer a quarterly return on or before April 15 of the current year, June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, setting forth the aggregate amount of taxable income not subject to withholding by the taxpayer during the three-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 income tax, together with such other information as the department may require. Every taxpayer filing a return shall, at the time of filing the return, pay to the resident tax officer the amount of income tax due. In accordance with criteria established by the department, the tax officer may waive the quarterly return and payment of the income tax and permit a taxpayer to file the receipt of taxable income on the taxpayer's annual return and pay the income tax due on or before April 15 of the succeeding year.

(Ord. 795, 9/13/2011, §3)

§24-304. Withholding and Remittance.

For taxable years commencing on and after January 1, 2012, income taxes shall be withheld, remitted and reported as follows:

- A. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the tax collection district which employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within 15 days

TAXATION; SPECIAL

after becoming an employer, register with the tax officer the name and address of the employer and such other information as the tax officer may require.

- B. An employer shall require each new employee to complete a certificate of residency form, which shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4). An employer shall also require any employee who changes their address or domicile to complete a certificate of residency form. The certificate of residency form shall provide information to help identify the political subdivision where an employee lives and works. Forms of certificate of residency may be obtained by an employer from the department upon request by an employer.
- C. Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district that employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall, at the time of payment, deduct from the compensation due each employee employed at such place of business the greater of the employee's resident tax or the employee's nonresident tax as released in the official register under §511 of the LTEA, 53 P.S. §6924.511.
- D. Except as set forth in Subsection E, within 30 days following the end of each calendar quarter, every employer shall file a quarterly return and pay the amount of income taxes deducted during the preceding calendar quarter to the tax officer for the place of employment of each employee. The form shall show the name, address and Social Security number of each employee, the compensation of the employee during the preceding three-month period, the income tax deducted from the employee, the political subdivision imposing the income tax upon the employee, the total compensation of all employees during the preceding calendar quarter, the total income tax deducted from the employees and paid with the return and any other information prescribed by the department.
- E. Notwithstanding Subsection D, the provisions of this paragraph shall apply if an employer has more than one place of employment in more than one tax collection district. Within 30 days following the last day of each month, the employer may file the return required by Subsection D and pay the total amount of income taxes deducted from employees in all work locations during the preceding month to the tax officer for either the tax collection district in which the employer's payroll operations are located or as determined by the department. The return and income taxes deducted shall be filed and paid electronically. The employer must file a notice of intention to file combined returns and make combined payments with the tax officer for each place of employment at least one month before filing its first combined return or making its first combined payment. This paragraph shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.
- F. Any employer who, for two of the preceding four quarterly periods, has failed to deduct the proper income tax, or any part of the income tax, or has failed to

pay over the proper amount of income tax as required by Subsection C to the tax collection district, may be required by the tax officer to file returns and pay the income tax monthly. In such cases, payments of income tax shall be made to the tax officer on or before the last day of the month succeeding the month for which the income tax was withheld.

- G. On or before February 28 of the succeeding year, every employer shall file with the tax officer where income taxes have been deducted and remitted pursuant to Subsection C:
- (1) An annual return showing, for the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of compensation paid, the total amount of income tax deducted, the total amount of income tax paid to the tax officer and any other information prescribed by the department.
 - (2) An individual withholding statement, which may be integrated with the Federal Wage and Tax Statement (Form W-2), for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the address and Social Security number, the amount of compensation paid to the employee during the period, the amount of income tax deducted, the amount of income tax paid to the tax officer, the numerical code prescribed by the department representing the tax collection district where the payments required by Subsections D and E were remitted and any other information required by the department. Every employer shall furnish one copy of the individual withholding statement to the employee for whom it is filed.
- H. Any employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file returns and withholding statements required under this Section and pay the income tax due.
- I. Except as otherwise provided in §511 of the LTEA, 53 P.S. §6924.511, an employer who willfully or negligently fails or omits to make the deductions required by this Subsection shall be liable for payment of income taxes which the employer was required to withhold to the extent that the income taxes have not been recovered from the employee. The failure or omission of any employer to make the deductions required by this Section shall not relieve any employee from the payment of the income tax or from complying with the requirements for filing of declaration and returns.

(Ord. 795, 9/13/2011, §4)

§24-305. Powers and Duties of Tax Officer.

TAXATION; SPECIAL

1. Tax Collection. In addition to any other power and duty conferred upon a tax officer in this Part or by law, it shall be the duty of the tax officer:
 - A. To collect, reconcile, administer and enforce income taxes imposed on residents and nonresidents in the Borough included in the tax collection district.
 - B. To receive and distribute income taxes and to enforce withholding by employers located in the tax collection district.
 - C. To receive income taxes distributed by tax officers for other tax collection districts.
 - D. To distribute income taxes to the Borough as required by §513 of the LTEA, 53 P.S. §6924.513.
 - E. To comply with all regulations adopted by the Borough under this Part and all resolutions, policies and procedures adopted by the tax collection committee.
 - F. To invest all income taxes in the custody of the tax officer in authorized investments, subject to the approval of the tax collection committee. The tax officer shall observe the standard of care that would be observed by a prudent person dealing with property of another. For the purposes of this paragraph, the term “authorized investment” shall include all of the following:
 - (1) Short-term obligations of the United States Government or its agencies or instrumentalities which are backed by the full faith and credit of the United States or are rated in the highest category by a nationally recognized statistical rating organization.
 - (2) Deposits in savings accounts, time deposits, share accounts or certificates of deposit of institutions, insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, or their successor agencies, to the extent that the accounts are insured and, for the amount above the insured maximum, that collateral, free from other liens, for the amount is pledged by the depository institution.
 - (3) Deposits in investment pools established by the State Treasurer or established by local governments pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) and related statutes, provided that the investment pools are rated in the highest category by a nationally recognized statistical rating organization.
 - (4) Repurchase agreements which are fully collateralized by obligations of the United States Government or its agencies or instrumentalities, which are free from other liens and backed by the full faith and credit of the United States or are rated in the highest category by a nationally recognized statistical rating organization.

- G. To distribute income generated from investments authorized under Subsection F as determined by the tax collection committee.
2. Monthly Reports. The tax officer shall, within 20 days after the end of each month, provide a written report, on forms prescribed by the department, to the secretary of the tax collection committee and to the secretary of the Borough for which taxes were collected during the previous month. The report shall include a breakdown of all income taxes, income generated from investments under Subsection 1F, penalties, costs and other money received, collected, expended and distributed for each political subdivision served by the tax officer and of all money distributed to tax officers for other tax collection districts.
 3. Overpayments. A tax officer shall refund, under 53 Pa.C.S. §8425 (relating to refunds of overpayments) and §8426 (relating to interest on overpayment), on petition of and proof by the taxpayer, income taxes paid in excess of income taxes rightfully due.
 4. Bonds. Prior to initiating any official duties, each tax officer shall give and acknowledge a bond to the appointing tax collection committee as follows:
 - A. The tax collection committee shall fix the amount of the bond in an amount equal to the maximum amount of taxes that may be in the possession of the tax officer at any given time or an amount sufficient, in combination with fiscal controls, insurance and other risk management and loss prevention measures used by the tax collection district, to secure the financial responsibility of the tax officer in accordance with guidelines adopted by the department. The amount of the bond shall be revised annually by the tax collection committee based upon the annual examination required under §505(h) of the LTEA, 53 P.S. §6924.515(h).
 - B. Each bond shall be joint and several, with one or more corporate sureties, which shall be surety companies authorized to do business in this Commonwealth and licensed by the insurance department.
 - C. Each bond shall be conditioned upon the completion of all of the following by the tax officer's employees and appointees:
 - (1) The faithful execution of all duties required of the tax officer.
 - (2) The just and faithful accounting or payment over of all moneys and balances paid to, received or held by the tax officer by virtue of the office in accordance with law.
 - (3) The delivery of all tax records or other official items held in right as the tax officer to the tax officer's successor in office.
 - D. Each bond shall be taken in the name of the tax collection district and shall be for the use of the tax collection district appointing the tax officer, and for the use of any other political subdivision or tax collection district for which income

TAXATION; SPECIAL

taxes shall be collected or distributed in case of a breach of any conditions of the bond by the acts or neglect of the principal on the bond.

- E. The tax collection committee or any political subdivision may sue upon the bond for the payment or distribution of income taxes.
 - F. Each bond shall contain the name of the surety company bound on the bond.
 - G. The tax collection committee may, upon cause shown and due notice to the tax officer and the tax officer's sureties, require or allow the substitution or the addition of a surety company acceptable to the tax collection committee for the purpose of making the bond sufficient in amount, without releasing the sureties first approved from any accrued liability or previous action on the bond.
 - H. The tax collection committee shall designate the custodian of the bond.
 - I. The tax officer shall file copies of all bonds in effect with the Borough.
 - J. A copy of all bonds in effect shall be made available upon request and at no cost to the department or to a tax collection district or political subdivision seeking payment or distribution of income taxes authorized by this Part.
5. Records. It shall be the duty of the tax officer to keep a record showing the amount of income taxes received from each taxpayer or other tax officer, the date of receipt, the amount and date of all other moneys received or distributed and any other information required by the department. All tax records shall be the property of the Borough and the tax collection district in which the taxes were collected. The tax collection district and tax officer shall retain all tax records as directed by the tax collection committee and, when applicable, in accordance with retention and disposition schedules established by the Local Government Records Committee of the Pennsylvania Historical and Museum Commission under 53 Pa.C.S. Ch. 13 Subch. F (relating to records). Tax records under this subsection may be retained electronically as permitted by law.
6. Employer and Taxpayer Audits.
- A. In order to verify the accuracy of any income tax declaration or return or, if no declaration or return was filed, to ascertain the income tax due, the tax officer and the tax officer's designated employees may examine or audit the records pertaining to income taxes due of any of the following:
 - (1) An employer.
 - (2) A taxpayer.
 - (3) A person whom the tax officer reasonably believes to be an employer or taxpayer.

- B. The examination or audit conducted by the tax officer and the tax officer's designated employees shall conform to the requirements set forth in the Local Taxpayers Bill of Rights, 53 Pa.C.S. §8421 et seq.
 - C. Every employer and taxpayer or other person whom the tax officer reasonably believes to be an employer or taxpayer shall provide to the tax officer and the tax officer's designated employees the means, facilities and opportunity for the examination and investigation authorized under Subsection A.
 - D. For purposes of this Subsection, the term "records" shall include any books, papers and relevant Federal or State tax returns and accompanying schedules, or supporting documentation for any income taxable under this Part.
7. Exchange of Information.
- A. The tax officer shall ensure that the tax collection district enters into an agreement with the Department of Revenue for the exchange of information as necessary for the collection of income taxes.
 - B. The Department of Revenue may enter into agreements with each tax collection district and shall establish procedures under which tax collection, filing and other taxpayer and locality information in its custody will be made available to tax officers for purposes of collection, reconciliation and enforcement no later than one year after the deadline for filing returns for the tax year in question.
8. Actions for Collection of Income Taxes. The tax officer may file an action in the name of the Borough for the recovery of income taxes due to the Borough and unpaid. Nothing in this subsection shall affect the authority of the Borough to file an action in its own name for collection of income taxes under this Part. This subsection shall not be construed to limit a tax officer, a tax collection district or the Borough from recovering delinquent income taxes by any other means provided by this Part or by law. Actions for collection of income taxes shall be subject to the following:
- A. Except as set forth in Subsection B or D, an action brought to recover income taxes must be commenced within three years of the later of the date:
 - (1) The income taxes are due.
 - (2) The declaration or return has been filed.
 - (3) Of a redetermination of compensation or net profits by the Department of Revenue.
 - B. If there is substantial understatement of income tax liability of 25% or more and there is no fraud, an action must be commenced within six years.

TAXATION; SPECIAL

- C. Except as set forth in Subsection D(2), (3) or (4), an action by a tax officer for recovery of an erroneous refund must be commenced as follows:
 - (1) Except as set forth in Subsection (2), within two years after making the refund.
 - (2) If it appears that any part of the refund was induced by fraud or misrepresentation of material fact, within five years after making the refund.
 - D. There is no limitation of action if any of the following apply:
 - (1) A taxpayer fails to file a declaration or return required under this Part.
 - (2) An examination of a declaration or return or of other evidence in the possession of the tax officer relating to the declaration or return reveals a fraudulent evasion of income taxes.
 - (3) An employer has deducted income taxes under §512 of the LTEA, 53 P.S. §6924.512, and has failed to pay the amount deducted by the tax officer.
 - (4) An employer has intentionally failed to make deductions required by this Part.
9. Interest and Penalties.
- A. Except as provided in Subsection B, if the income tax is not paid when due, interest at the rate the taxpayer is required to pay to the Commonwealth under §806 of the Act of April 9, 1929 (P.L. 343, No. 176), known as the Fiscal Code, 72 P.S. §806, on the amount of the income tax, and an additional penalty of 1% of the amount of the unpaid income tax for each month or fraction of a month during which the income tax remains unpaid shall be added and collected but the amount shall not exceed 15% in the aggregate. Where an action is brought for the recovery of the income tax, the taxpayer liable for the income tax shall, in addition, be liable for the costs of collection, interest and penalties.
 - B. The department may establish conditions under which a tax officer, with the concurrence of the tax collection committee, may abate interest or penalties that would otherwise be imposed for the nonreporting or underreporting of income tax liabilities or for the nonpayment of income taxes previously imposed and due if the taxpayer voluntarily files delinquent returns and pays the income taxes in full.
 - C. The provisions of Subsection B shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under this Part, or prevent the commencement or further prosecution of any proceedings by the proper authorities for violations of this Part. No proceedings shall, however, be commenced on the basis of delinquent returns filed pursuant to Subsection

8 if the returns are determined to be substantially true and correct and the income taxes are paid in full within the prescribed time.

10. Fines and Penalties for Violations.

- A. Any taxpayer who fails, neglects or refuses to make any declaration or return required by this Part, any employer who fails, neglects or refuses to register, keep or supply records or returns required by §512 of the LTEA, 53 P.S. §6924.512, or to pay the income tax deducted from employees, or fails, neglects or refuses to deduct or withhold the income tax from employees, any taxpayer or employer who refuses to permit the tax officer appointed by a tax collection committee or an employee or agent of the tax officer to examine books, records and papers, and any taxpayer or employer who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of income in order to avoid the payment of income taxes shall, upon conviction thereof, be sentenced to pay a fine of not more than \$2,500 for each offense and reasonable costs, and in default of payment of said fine and costs, to imprisonment for not more than six months.
- B. Any employer required under this Part to collect, account for and distribute income taxes who willfully fails to collect or truthfully account for and distribute income taxes, commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding \$25,000 or to imprisonment not exceeding two years, or both.
- C. The penalties imposed under this subsection shall be in addition to any other costs and penalties imposed by this Part.
- D. The failure of any person to obtain forms required for making the declaration or returns required by this Part shall not excuse the person from making the declaration or return.

11. Costs. The tax officer shall be entitled to impose and collect the reasonable costs incurred to provide notices of delinquency or to implement similar procedures utilized to collect delinquent taxes from a taxpayer as approved by the tax collection committee. Reasonable costs collected may be retained by the tax officer. An itemized accounting of all costs collected shall be remitted to the tax collection committee on an annual basis.

12. Appeals and Tax Officer Actions. A determination of the tax officer relating to the assessment, collection, refund, withholding, remittance or distribution of income taxes may be appealed to the appeals board established by the tax collection committee by a taxpayer, employer, political subdivision or another tax collection district pursuant to the provisions of §505(j) of Act 32, 53 PS §6924.505(j). Pursuant to §505(k) of Act 32, 53 P.S. §6924.515(k), any dispute among the affected parties involving a 10% or greater deviation from taxes received in the previous tax year shall be subject to mandatory mediation in accordance with regulations and guidelines adopted by the department. A dispute involving less than a 10%

TAXATION; SPECIAL

threshold may be the subject of voluntary mediation in accordance with regulations and guidelines adopted by the department.

13. Confidentiality.

- A. **General Rule.** Any information gained by a tax officer or any employee or agent of a tax officer or of the tax collection committee as a result of any declarations, returns, investigations, hearings or verifications shall be confidential tax information.
- B. **Prohibited Conduct.** It shall be unlawful, except for official purposes or as provided by law, for the Commonwealth, the Borough, tax collection committee member, tax officer or employee or agent of a tax officer or tax collection committee to do any of the following:
 - (1) Divulge or make known confidential tax information.
 - (2) Permit confidential tax information or a book containing an abstract or particulars of the abstract to be seen or examined by any person.
 - (3) Print, publish or otherwise make known any confidential tax information.
- C. **Penalties.** A person who violates Subsection B commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$2,500 or to imprisonment for not more than one year, or both. If the offender is a member of the tax collection committee, the member shall be removed from the tax collection committee. If the offender is an employee of a tax collection committee or the Borough the employee shall be discharged from employment. The offender shall pay the costs of prosecution.

(Ord. 795, 9/13/2011, §5)

§24-306. Compensation of Income Tax Officer.

The tax officer shall receive such compensation for his services and expenses as determined by the tax collection committee. At the discretion of the tax collection committee, the tax officer may be permitted to withhold the amount of the tax officer's compensation from income taxes collected if the monthly reports required by §509(b) of the LTEA, submitted by the tax officer include an accounting for all compensation withheld.

(Ord. 795, 9/13/2011, §6)

§24-307. Applicability.

The tax imposed by this Part shall not apply:

- A. To any person as to whom it is beyond the legal power of the Borough to impose the tax herein provided under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.
- B. To institutions or organizations operated for public, religious, educational, or charitable purposes, to institutions or organizations not organized or operated for private profit, or to trusts and foundations established for any of the said purposes.

This Section shall not be construed to exempt any person who is an employer from the duty of collecting the tax from his employees and paying the amount collected to the tax officer under the provisions of §24-304 of this Part.

(Ord. 795, 9/13/2011, §7)

§24-308. Effective Date, Repealer, Conflict.

1. The provisions of this Part shall take effect on January 1, 2012, and shall apply to earned income and net profits received or earned income and net profits earned or made by a taxpayer during calendar year 2012 and each year thereafter without annual reenactment unless the rate of tax is subsequently changed. Changes in the rate of tax shall become effective on the date specified in this Part.
2. Nothing contained herein shall be considered to repeal by implication or otherwise the provisions of any earned income and net profits tax ordinance(s) previously enacted as it may apply to earned income and net profits of taxpayers prior to the effective date of this Part, which shall remain in full force and effect with respect to such earned income and net profits.
3. Subject to valid enactment of this Part without appeal, all provisions of any prior ordinance or parts thereof inconsistent herewith are hereby modified, amended, and repealed by the provisions of this Part, which shall thereafter govern the taxation of such earned income and net profits.
4. This Part is enacted under authority of the LTEA, and all provisions thereof that relate to a tax on earned income and net profits are incorporated into this Part. Any future amendments to the LTEA that are required to be applied to a tax on earned income or net profits will automatically become part of this Part upon the effective date of such amendment, without the need for formal amendment of this Part, to the maximum extent allowed by 1 Pa.C.S.A. §1937.

(Ord. 795, 9/13/2011, §9)

Part 4

Occupation Privilege Tax

§24-401. Definitions.

The following words and phrases, when used in this Part 4, shall have the meanings ascribed to them in this §24-401, except where the context or language clearly indicates or requires a different meaning.

BOROUGH OF COPLAY, LEHIGH COUNTY — the area within the limits of the Borough of Coplay, Lehigh County.

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.

FISCAL YEAR — the 12 month period beginning January 1 to December 31.

HE, HIS, HIM — shall mean and indicate 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 limits of the Borough of Coplay, Lehigh County.

OCCUPATION — any trade, profession, business, or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the limits of the Borough of Coplay, Lehigh County.

TAX — the Occupation Privilege Tax in the amount of \$5 levied by this Part 4.

TAX COLLECTOR — the Tax Collector of the Borough of Coplay, Lehigh County.

(Ord. 481, 12/17/1968, §1; as amended by Ord. 623, 2/13/1990)

§24-402. Levy.

The Borough of Coplay, Lehigh County, hereby levies and imposes on each occupation engaged in by individuals within its limits during each fiscal year an Occupation Privilege Tax, enacted under authority of Act 511, the Local Tax Enabling Act. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough of Coplay, Lehigh County.

(Ord. 481, 12/17/1968, §2; as amended by Ord. 623, 2/13/1990)

TAXATION; SPECIAL

§24-403. Amount of Tax.

Beginning with the first day of January, annually, each occupation, as hereinbefore defined, engaged in within the limits of the Borough of Coplay, Lehigh County, shall be subject to an Occupation Privilege Tax in the amount of \$5 per annum, said tax to be paid by the individual so engaged.

(Ord. 481, 12/17/1968, §3)

§24-404. Duty of Employers.

Each employer within the Borough of Coplay, Lehigh County, as well as those employers situated outside the Borough of Coplay, Lehigh County, but who engage in business within the Borough of Coplay, Lehigh County, hereby charged with the duty of collecting from each of his employees engaged by him and performing [services] for him within the Borough of Coplay, Lehigh County, the said tax of \$5 per annum and making a return and payment thereof to the Tax Collector. Further, each employer is hereby authorized to deduct this tax from each employee, whether said employee is paid by salary, wage or commission and whether or not part or all such services are performed within the Borough of Coplay, Lehigh County.

(Ord. 481, 12/17/1968, §4)

§24-405. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Tax Collector. Each employer in filing this return and making payment of the tax withheld from his employees shall be entitled to retain a commission calculated at the rate of 2% of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to said employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him.

(Ord. 481, 12/17/1968, §5)

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

Each employer shall use his employment records from the first day of January to the 31st day of March for determining the number of employees from whom said tax shall be deducted and shall pay over the Tax Collector the said tax on or before April 30, annually. Supplemental reports shall be made by each employer on June 30, annually, September 30, annually, and December 31, annually, of new employees as reflected on

his employment records from April 1 to June 30, annually, and from July 1 to September 30, annually, and from October 1 to December 31, annually. Payments on these supplemental reports shall be made on July 30, annually, October 31, annually, and January 31, annually, of the succeeding year, respectively.

(Ord. 481, 12/17/1968, §6; as amended by Ord. 623, 2/13/1990)

§24-407. Individuals Engaged in More Than One Occupation.

Each individual who shall have more than one occupation within the Borough of Coplay, Lehigh County, shall be subject to the payment of this Tax on his principal occupation, and his principal employer shall deduct this tax and deliver to him evidence of deductions on a form to be furnished to the employer by the Tax Collector, which form shall be evidence of deduction having been made and when presented to any other employer shall be authority for such employer to not deduct this tax from the employee's wages, but to include such employee on his return by setting forth his name, address, and the name and account number of the employer who deducted the tax.

(Ord. 481, 12/17/1968, §7)

§24-408. Self-Employed Individuals.

All self-employed individuals who perform services of any type or kind, engage in any occupation or profession within the Borough of Coplay, Lehigh County, shall be required to comply with this Part 4 and pay the tax to the Tax Collector on May 30, annually, or as soon thereafter as he engages in an occupation within the fiscal year.

(Ord. 481, 12/17/1968, §8)

§24-409. Employers and Self-Employed Individuals Residing Beyond the Limits of the Borough of Coplay, Lehigh County.

All employers and self-employed individuals residing or having their place of business outside the Borough of Coplay, Lehigh County, but who perform services of any type or kind, or engage in any occupation or profession within the Borough of Coplay, Lehigh County, do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Part 4 with the same force and effect as though they were residents of the Borough of Coplay, Lehigh County. Further, any individual engaged in an occupation within the Borough of Coplay, Lehigh County, and an employee of a nonresident employer may, for the purpose of this Part 4, be considered a self-employed person, and in the event this tax is not paid, the Borough of Coplay, Lehigh County, shall have the option of proceeding against either the employee or employer for the collection of this tax as hereinafter provided.

(Ord. 481, 12/17/1968, §9)

TAXATION; SPECIAL

§24-410. Administration of Tax.

1. The tax shall be collected by the duly elected or appointed Tax Collector of the Borough of Coplay.
2. The Tax Collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law for other Borough taxes.
3. It shall be the duty of the Tax Collector to accept and receive payment of the tax and to keep a record thereof showing the amount received by him from each employer or self-employed person subject to the tax, together with the date the tax was received and to remit the same to the Treasurer of the Borough of Coplay by a separate statement at the same time as other taxes are remitted to the Borough.
4. The expenses of collection and compensation of the Tax Collector shall be the same as fixed from time to time by the Borough for the collection of other Borough taxes.
5. The officer charged with the administration and enforcement of the provisions of this Part 4 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 4, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in case of overpayment, for any period of time not to exceed six years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of this Part 4. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution of the Borough Council. A copy of such rules and regulations currently in force shall be available for public inspection.
6. The Tax Collector is hereby authorized to examine the books and payroll records of any employer, or of any person whom the Tax Collector reasonably believes to be an employer, or of the taxpayer in order to verify the accuracy of any return and to ascertain the tax due. Each employee is hereby directed and required to give the Tax Collector the means, facilities and opportunity for such examination and investigation.

(Ord. 481, 12/17/1968, §10)

§24-411. Suits for Collection.

1. In the event that any tax under this Part 4 remains due or unpaid 30 days after the due dates above set forth the Tax Collector may sue for the recovery of any such tax due or unpaid under this Part 4 together with interest and penalty.

2. Any suit brought to recover the tax imposed by this Part 4 shall be begun within three years after such tax is due, or within three years after return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due as provided by Act 511, The Local Tax Enabling Act, or the Commonwealth of Pennsylvania.
3. 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 with the due date of said tax and a penalty of 5% shall be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection.
4. Distress and Sale of Goods and Chattels of Taxpayer. Every Tax Collector shall have power, in case of the neglect or refusal of any person, copartnership, association, or corporation, to make payment of the amount of any tax due by him, after two months from the date of the tax notice, to levy the amount of such tax, any penalty due thereon and costs, not exceeding costs and charges allowed constables for similar services by distress and sale of goods and chattels of such delinquent, wherever 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.

No failure to demand or collect any taxes by distress and sale of goods and chattels shall invalidate any return made, or lien filed for nonpayment of taxes, or any tax sale for the collection of taxes.

(Ord. 481, 12/17/1968, §11)

§24-412. Fine and Penalty.

Whoever makes any false or untrue statement on any return required by this Part 4, or who refuses inspection of his books, records or accounts in his custody and control setting forth the number of employees subject to this tax who are in his employment; or whoever fails or refuses to file any return required by this Part 4, shall, upon conviction thereof, be sentenced to pay a fine not exceeding \$600 and costs, and in default of payment thereof, shall be subject to imprisonment for a term not to exceed 30 days for each offense. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has filed or refuses to file a return required by this Part 4.

(Ord. 481, 12/17/1968, §12)

Part 5

Per Capita Tax

§24-501. Per Capita Tax Levied.

A Per Capita Tax of \$5 per annum be and the same is hereby levied and assessed upon each resident and inhabitant of the Borough of Coplay, who is 18 years of age or over.

(Ord. 549, 12/9/1975, §1)

§24-502. Collection of Per Capita Tax.

Said tax shall be collected by the duly elected or appointed Tax Collector of Borough taxes for the Borough of Coplay in the said manner and at the same time or times as other Borough taxes are collected, as provided by the Local Tax Collection Law of 1965 (1945), as amended and supplemented.

(Ord. 549, 12/9/1975, §2)

§24-503. Tax Collector's Bond.

The Tax Collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law for other Borough taxes.

(Ord. 549, 12/9/1975, §3)

§24-504. Tax Duplicate Constitutes Warrant for Collection.

The entry of said Per Capita Tax in the tax duplicate and issuance of said duplicate to the Tax Collector shall constitute his warrant for the collection of said Per Capita Tax hereby levied and assessed.

(Ord. 549, 12/9/1975, §4)

§24-505. Tax Collector's Expenses and Compensation.

The expenses of collection and compensation of the Tax Collector shall be paid and allowed as provided in the Local Tax Collection Law of 1965 (1945), as amended and supplemented, which compensation shall be the same as fixed from time to time by the Borough of Coplay for the collection of other Borough taxes.

(Ord. 549, 12/9/1975, §5)

TAXATION; SPECIAL

§24-506. Notice to Taxpayers.

The Tax Collector shall give notice to the taxpayers at the same time and in the same manner as provided by the Local Tax Collection Law of 1965 [1945], as amended and supplemented, and as in the case of other Borough taxes.

(Ord. 549, 12/9/1975, §6)

§24-507. Addition of Names to Tax Duplicate.

In case the Tax Collector shall, at any time, find within the Borough of Coplay any resident or inhabitant above the age of 18 years, whose name does not appear upon the tax duplicate, he shall report the name of such person forthwith to the Assessor, who shall thereupon certify same unto the Borough of Coplay, which shall promptly certify the same to the Tax Collector reporting said name, whereupon the Tax Collector shall add the name and the assessment of this Per Capita Tax against such person to the duplicate of the Borough of Coplay and proceed to collect same.

(Ord. 549, 12/9/1975, §7)

§24-508. Collection by Distress and Sale of Personal Property.

The Tax Collector shall be and is hereby empowered with the authority to collect said tax, interest and penalty by distress and sell all goods and chattels of the taxpayer, as provided for by the Local Tax Collection Law of 1965 [1945], as amended and supplemented.

(Ord. 549, 12/9/1975, §8)

§24-509. Collection by Wage Attachment.

There is hereby conferred upon the Tax Collector the power and authority to demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals, employing persons owing Per Capita Taxes, or if in possession of unpaid commissions or earnings belonging to any person owing Per Capita Taxes, upon the presentation of such written notice and demand containing the name of the taxable and the amount of tax due. Upon the presentation of such written notice and demand it shall be the duty of such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees then owing or that shall, within 60 days thereafter become due, or from any unpaid commissions or earnings of any taxable in its or his possession, or that shall within 60 days thereafter come into his or its possession, a sum sufficient to pay the respective amount of the per Capita Taxes and costs shown upon the written demand or notice,

and to pay the same to the Tax Collector of the Borough of Coplay within sixty days after such notice shall be given. The employer shall be entitled to deduct not more than 2% of his expenses for such monies paid over to the Tax Collector. Upon the failure of such employer to make such deductions when properly notified as herein provided, such employer shall forfeit and pay the amount of such tax for each such taxable whose taxes were not withheld and paid over the Tax Collector as herein provided, which amount may be recovered by an action of assumpsit in a suit to be instituted by the Tax Collector on behalf of the Borough of Coplay.

(Ord. 549, 12/9/1975, §9; as amended by Ord. 623, 2/13/1990)

§24-510. Tax Collector's Accounts; Remittance of Tax to Borough Treasurer.

The Tax Collector shall keep a correct amount [account] of all Per Capita Taxes collected by authority of this Part 5. He shall mark the same paid on each duplicate and the names of each taxable and the date on which payment was made. The Tax Collector shall remit said taxes to the Treasurer of the Borough of Coplay by a separate statement at the same time as other taxes are remitted to the Borough of Coplay.

(Ord. 549, 12/9/1975, §10)

§24-511. Discounts and Penalties.

All taxpayers subject to the payment of the Per Capita Taxes herein levied and assessed, shall be entitled to a discount of 2% of the amount of such tax upon making payment of the whole amount thereof within two months after the date of the tax notice. All taxpayers who fail to make payment of such taxes charged against them for a period of four months after the date of the tax notice, shall be charged a penalty of 5%, which penalty shall be added to the taxes by the Tax Collector and be collected by him.

(Ord. 549, 12/9/1975, §11)

§24-512. Local Tax Collection Law Applicable.

It is the intent of this Part 5 and there is hereby conferred upon the Tax Collector all the powers, together with all the duties and obligations to the same extent as fully as provided for in the Local Tax Collection Law of 1964 (1945), as amended and supplemented.

(Ord. 549, 12/9/1975, §12)

TAXATION; SPECIAL

§24-513. Authority for Enactment.

This Part 5 is enacted under the authority of the Local Tax Collection Law of 1965 (Tax ordinances of this type are now enacted pursuant to authority of the Local Tax Enabling Act of 1965, P.L. 1257.), as amended, and is levied and assessed for a period of one year beginning January 1 and ending December 31.

(Ord. 549, 12/9/1975, §15; as amended by Ord. 623, 2/13/1990)

Part 6

Special Head Tax

§24-601. Special Head Tax Levied.

A Special Head Tax of \$5 per annum be, and the same is hereby levied and assessed upon each resident and inhabitant of the Borough of Coplay, who is 18 years of age or over.

(Ord. 527, 12/27/1973, §1)

§24-602. Collection of Special Head Tax.

Said tax shall be collected by the duly elected or appointed Tax Collector of Borough taxes for the Borough of Coplay in the said manner and at the same time or times as other Borough taxes are collected, as provided by law.

(Ord. 527, 12/27/1973, §2)

§24-603. Tax Collector's Bond.

The Tax Collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law for other Borough taxes.

(Ord. 527, 12/27/1973, §3)

§24-604. Tax Duplicate Constitutes Warrant for Collection.

The entry of said Special Head Tax in the tax duplicate and issuance of said duplicate to the Tax Collector shall constitute his warrant for the collection of said special head tax hereby levied and assessed.

(Ord. 527, 12/27/1973, §4)

§24-605. Tax Collector's Expenses and Compensation.

The expenses of collection and compensation of the Tax Collector shall be paid and allowed as provided by [law], which compensation shall be the same as fixed from time to time by the Borough of Coplay for the collection of other Borough taxes.

(Ord. 527, 12/27/1973, §5)

TAXATION; SPECIAL

§24-606. Notice to Taxpayers.

The Tax Collector shall give notice to the taxpayers at the same time and in the same manner as provided by law for other Borough taxes.

(Ord. 527, 12/27/1973, §6)

§24-607. Addition of Names to Tax Duplicate.

In case the Tax Collector shall, at any time, find within the Borough of Coplay any resident or inhabitant above the age of 18 years, whose name does not appear upon the tax duplicate, he shall report the name of such person forthwith to the Assessor, who shall thereupon certify same unto the Borough of Coplay, which shall promptly certify the same to the Tax Collector reporting said name, whereupon the Tax Collector shall add the name and the assessment of this special head tax against such person to the duplicate of the Borough of Coplay and proceed to collect same.

(Ord. 527, 12/27/1973, §7)

§24-608. Collection by Distress and Sale of Personal Property.

The Tax Collector shall be and is hereby empowered with the authority to collect said tax, interest and penalty by distress and sell all goods and chattels of the taxpayer, as provided by law.

(Ord. 527, 12/27/1973, §8)

§24-609. Collection by Wage Attachment.

There is hereby conferred upon the Tax Collector the power and authority to demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals, employing persons owing Special Head Taxes, or if in possession of unpaid commissions or earnings belonging to any person owing special head taxes, upon the presentation of written notice and demand containing the name of the taxable, and the amount of tax due. Upon the presentation of such written notice and demand it shall be the duty of such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions, or earnings of such individual employees then owing or that shall within 60 days thereafter become due, or from any unpaid commissions or earnings or any taxable in its or his possession, or that shall within 60 days thereafter come into his or its possession, a sum sufficient to pay the respective amount of the special head taxes and costs shown upon the written demand or notice, and to pay the same to the Tax Collector of the Borough of Coplay within 60 days after such notice shall be given. The employer shall be entitled to deduct a percentage as provided by law for his expenses for such moneys paid over the Tax Collector. Upon the

failure of such employer to make such deductions when properly notified as herein provided, such employer shall forfeit and pay the amount of such tax for each such taxable whose taxes are not withheld and paid over to the Tax Collector as herein provided, which amount may be recovered by an action of assumpsit in a suit to be instituted by the Tax Collector on behalf of the Borough of Coplay.

(Ord. 527, 12/27/1973, §9; as amended by Ord. 623, 2/13/1990)

§24-610. Tax Collector's Accounts; Remittance of Taxes to Borough Treasurer.

The Tax Collector shall keep correct account of all Special Head Taxes collected by authority of this Part 6. He shall mark the same paid on each duplicate and the name of each taxable and the date on which payment was made. The Tax Collector shall remit said taxes to the Treasurer of the Borough of Coplay by a separate statement at the same time as other taxes are remitted to the Borough of Coplay.

(Ord. 527, 12/27/1973, §10)

§24-611. Discounts and Penalties.

All taxpayers, subject to the payment of the Special Head Taxes herein levied and assessed, shall be entitled to a discount of 2% of the amount of such tax upon making payment of the whole amount thereof within two months after the date of the tax notice. All taxpayers who fail to make payment of any such taxes charged against them for a period of four months after the date of the tax notice, shall be charged a penalty of 5%, which penalty shall be added to the taxes by the Tax Collector and be collected by him.

(Ord. 527, 12/27/1973, §1)

§24-612. Powers, Duties and Obligations of Tax Collector.

It is the intent of this Part 6 and there is hereby conferred upon the Tax Collector all the powers, together with all the duties and obligations to the same extent as fully as provided for by law.

(Ord. 527, 12/27/1973, §12)

§24-613. Legal Authority; Duration.

This Part 6 is enacted under the authority of The Local Tax Enabling Act of 1965, as amended, and is levied and assessed for a period of one year beginning January 1st and ending December 31st.

(Ord. 527, 12/27/1973, §15)

Part 7

Local Taxpayers Bill of Rights

§24-701. Definitions.

For purposes of this Part, the terms "eligible tax" and "taxpayer" shall have the same meanings as provided in 53 Pa.C.S. §8422.

(Ord. 694, 2/9/1999, §1)

§24-702. Disclosure Statement.

The Borough Solicitor is hereby authorized and directed to prepare a disclosure statement in accordance with the provisions of 53 Pa.C.S. §8423(a) and this Part. All Borough employees and agents who contact any taxpayer (orally or in writing) regarding the assessment, audit, determination, review or collection of an eligible tax shall either: (i) hand deliver or mail a copy of the disclosure statement to the taxpayer; or (ii) give the notice set forth in 53 Pa.C.S. §8423(b) (orally or in writing, depending on the method of contacting the taxpayer).

(Ord. 694, 2/9/1999, §2)

§24-703. Requests for Information.

1. **Response.** A taxpayer must respond to a request for information (within the meaning of 53 Pa.C.S. §8424(a)) within 30 calendar days after the date of the request, unless a longer period of time is specifically set forth in the request.
2. **Verification.** All responses to requests for information shall be accompanied by a statement that the information is true, correct and complete to the best of the taxpayer's knowledge, information and belief, subject to the penalties of 18 Pa.C.S. §4909 (relating to unsworn falsifications to authorities).
3. **Extensions.** If a taxpayer believes that there is a good reason why he/she will be unable to respond to a request for information by the deadline (or by the end of any previously granted extension), he/she may request a reasonable extension. The request must be directed to the Borough Secretary or Tax Collector (or his/her delegate) and may be made either by phone, in writing or in person to the office of the Borough Secretary or Tax Collector. The Borough must receive the request no later than 15 calendar days before the deadline for the response (or, if later, within five calendar days after the taxpayer receives the request for information). The Borough Secretary or Tax Collector may grant a reasonable extension if he/she feels the taxpayer has a good reason for it. If the taxpayer is not satisfied with the decision of the Borough's representative, the taxpayer may appeal the

TAXATION; SPECIAL

decision to Borough Council by filing a petition for reconsideration under §24-704 of this Part.

4. Action Against Taxpayer. The Borough shall take no lawful action against a taxpayer for any tax and for any tax period for which a request for information to the taxpayer is outstanding until the expiration of the applicable response period, including extensions.

(Ord. 694, 2/9/1999, §3)

§24-704. Administrative Appeals.

1. Petition for Reassessment. Any taxpayer who desires to challenge or dispute any assessment or determination by the Borough of an eligible tax against the taxpayer, and of any interest or penalties on an eligible tax, must file a written petition for reassessment with the Borough Council within 90 days after the date the assessment notice was mailed to the taxpayer.
2. Petition for Refund. Any taxpayer who believes he/she overpaid any eligible tax and is entitled to a refund may file a written petition for refund with the Borough Council. The petition must be filed no later than the following deadlines, even if the taxpayer has filed a request for a refund with the Tax Collector and not yet received a response:
 - (1) If a return or report is required for the particular tax, the deadline is the later of:
 - (a) Three years after the due date of the return or report (including extensions).
 - (b) One year after the actual payment of the tax.
 - (2) If no return or report is required, the deadline is the later of:
 - (a) Three years after the due date for payment of the tax.
 - (b) One year after the actual payment of the tax.
3. Petition. Any taxpayer who desires to appeal a decision of the Borough denying or limiting the taxpayer's request for an extension of time to respond to a Borough request for tax information must file a written petition for reconsideration with the Borough Council within five days after the date of the Borough's decision.
4. Requirements for Petitions. A petition under this Section need not be in any particular form, but must include a concise statement of all the reasons supporting the application. A petition for reassessment or reconsideration must also include a copy of the assessment or decision being appealed. A petition is considered "filed"

on the date it is delivered to the office of the Borough Secretary or the date that the letter/envelope transmitting it (and bearing sufficient postage) is postmarked by the United States Postal Service for delivery to the office of the Borough Secretary.

5. Review by Council. A petition under this Section shall be considered by Borough Council in executive session. Borough Council shall not conduct a formal hearing and no stenographic or other record shall be made of the executive session. The process shall be a "review and decision" under 53 Pa.C.S. §8430(2) and not a "hearing and decision." However, the taxpayer shall be given the opportunity, personally or through counsel, to present relevant, nonrepetitious evidence, without regard to formal rules of evidence, and to present argument in support of the taxpayer's position. Borough officers, employees or agents may also present evidence and argument in support of the assessment or decision, or in opposition to the relief requested. Cross-examination shall only be permitted in the discretion of Borough Council.
6. Decision. Borough Council shall render a decision on a petition and mail a written decision to the taxpayer within 60 calendar days after the date a complete and accurate petition is received by the Borough. The decision need not contain any findings of fact or conclusions of law. If Borough Council fails to act within that time, the petition shall be deemed approved.

(Ord. 694, 2/9/1999, §4)

§24-705. Compliance with the Act.

All Borough officers, agents and employees who have any responsibility for the audit, assessment, determination or administration of an eligible tax, including persons having any contact with taxpayers in that regard, shall familiarize themselves with the requirements of the Local Taxpayers Bill of Rights Act, 53 Pa.C.S. §§8421-8438 and this Part, and shall comply with them at all times.

(Ord. 694, 2/9/1999, §5)

Appendix A

Taxpayer Bill of Rights Disclosure Statement

Under the Local Taxpayers Bill of Rights Act, 53 Pa.C.S. §§8421-8438, you have a number of rights in connection with the assessment, audit, determination, review or collection of any "eligible tax" by the Borough of Coplay, including earned income tax, occupational privilege tax, business privilege tax and per capita tax (but not including the real property tax).

Request.

You have thirty (30) calendar days to respond to any request for information by the Borough. The time starts to run on the mailing date of the request, not the date you receive the request. However, if there is a good reason why you will be unable to respond within thirty days (or by the end of any previously granted extension), you may request a reasonable extension. To obtain an extension, you must call (610-262-6088) or write (98 S. Fourth Street, Coplay, PA 18037) to the Borough Secretary as soon as possible. The Borough must receive your request for an extension no later than fifteen (15) days before the deadline for your response or, if later, five (5) days after you receive the Borough's request for information. The Borough may grant a reasonable extension if there is good reason for it. If you are not satisfied with the Borough's decision, you may appeal to the Borough Council. The Borough will not take any action against you for the tax years in question until after the response period expires, including extensions.

The Borough will not request information for any tax required to be paid or any tax return required to be filed, more than three (3) years before the mailing date of the notice unless either: (i) the Borough has reason to believe that you failed to file a return or pay a tax due more than three (3) years before the date of the notice; or (ii) after an initial request for information, the Borough determines that you failed to file a return, under reported income or failed to pay a tax one (1) or more periods covered by the initial request. The Borough will not request copies of your Federal individual income tax return, unless the information is not available from other available sources (including the Pennsylvania Department of Revenue) and is reasonably necessary to collect or enforce the tax.

All responses for requests for information shall be accompanied by a statement that the information presented is true, correct and complete to best of your knowledge, information and belief, subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

If you do not respond to a request for information by the deadline (including extensions), or do not provide all information requested, the Borough may estimate and assess the taxes due based on any information available to it.

Notice of Underpayment; Penalties and Interest.

If the Borough determines that you have underpaid any eligible tax and/or are liable for interest and/or penalties relating to an eligible tax,

the Borough will send you a written notice that states:

A. The tax period(s) for which there is an underpayment and the amount of underpayment for each tax period.

B. An itemization of the revisions made by the Borough to the return(s) or report(s) filed by you, which result in the determination that there is an underpayment.

C. Any applicable interest or penalties and the manner which they are calculated.

D. The legal basis for the determination.

This notice is also known as an "assessment." If you believe and assessment is wrong and wish to challenge it, you must file a timely petition for reassessment under the procedures described in the administrative appeals section, below. Otherwise, you will lose the right to dispute the assessment and the Borough will proceed to collect the tax, interest and/or penalties assessed.

Erroneous Advice by the Borough.

If any Borough official or agent acting in his/her official capacity gives you any written advice in response to a specific written request from you, and you reasonably rely on that advice, but it turns out that the advice was wrong and that you owe additional tax, the Borough will not collect any penalty or interest from you on that additional tax, unless it results from your failure to provide adequate or accurate information. The Borough is not required to provide any written advice to taxpayers.

Requests for Refunds.

If you believe that you overpaid any eligible tax, you may file a written request for a refund or credit, addressed to 98 S. Fourth Street, Coplay, PA 18037 (if you show an overpayment on a tax return, we will consider that a request for a cash refund, unless you state otherwise on the return). The request must be filed no later than the following deadlines:

A. If a return or report is required for the particular tax, the deadline is the later of (i) three (3) years after the due date of the return or report (including extensions); or (ii) one (1) year after actual payment of the tax.

B. If no return or report is required, the deadline is the later of (i) three (3) years after the due date for payment of the tax; or (ii) one (1) year after actual payment of the tax.

C. If you paid the tax because you received notice from the Borough telling you that you owe the tax, the deadline is one (1) year after the date of payment.

A "request" for a refund is handled by the Tax Collector, who will ordinarily respond within thirty (30) days. However, you are not required to file a "request" and may file a "petition" for a refund directly to the

Borough Council under the procedures described in the administrative appeals section, below. Even if you file a "request" with the Tax Collector, and you have not received a response, you must file any "petition" to the Borough Council within the time limits for petitions.

If you receive and cash a refund check from the Borough for an eligible tax, you may still file a timely request or petition for an additional refund if you believe you are entitled to it.

Interest on Overpayments.

If you overpay any eligible tax and the Borough does not refund the overpayment or apply it to any other tax, interest or penalty owed to the Borough within seventy-five (75) days after the due date of the tax return or report (or, if later, within seventy-five (75) days after you file the return or report), you are entitled to simple interest on the overpayment from the "date of overpayment" to the "date of resolution," as defined in the Act. You are not entitled to any interest on overpayments of interest or penalties.

Taxpayer Complaints.

If you have any complaints about the manner in which any officer, employee or agent is administering the Borough tax laws, you may present them to the President of Borough Council or the entire Borough Council.

Administrative Appeals.

If you wish to challenge or dispute any assessment or determination of tax, interest or penalties by the Borough, you must file a written petition for reassessment with the Borough Council within ninety (90) days after the date the assessment notice was mailed to you.

If you believe you have overpaid any eligible tax and are entitled to a refund, you may file a written petition for refund with the Borough Council. The petition must be filed no later than the following deadlines, even if you have filed a "request" for refund with the Tax Collector and have not yet received a response:

A. If a return is required for the particular tax, the deadline is the later of (i) three (3) years after the date of the return or report (including extensions); or (ii) one (1) year after actual payment of the tax.

B. If no return or report is required, the deadline is the later of (i) three (3) years after the due date for payment of the tax; or (ii) one (1) year after actual payment of the tax.

If you wish to appeal a decision of the Borough denying or limiting your request for an extension of time to respond to a Borough request for tax information, you may file a written petition for reconsideration with the Borough Council within five (5) days after the date of the decision.

The petition need not be in any particular form, but must include a concise statement of all the reasons supporting the application. A petition

TAXATION, SPECIAL

for reassessment or reconsideration shall also include a copy of the assessment or decision being appealed. A petition is considered "filed" on the date it is hand delivered to the office of the Borough Secretary, 98 S. Fourth Street, Coplay, PA 18037, or the date that the letter/envelope transmitting it (and bearing sufficient postage) is postmarked by the United States Postal Service for delivery to that address.

A petition shall be considered by the Borough Council in executive session. Borough Council shall not conduct a formal hearing and no stenographic or other record shall be made of the executive session. The process shall be a "review and decision" under 53 Pa.C.S. §8430(2) and not a "hearing and decision." However, you may personally or, through counsel, present relevant, nonrepetitious evidence to the Borough Council, without regard to formal rules of evidence, and shall be given the opportunity to present argument in support of your position. Borough officials or agents may also present evidence and argument in support of their assessment or decision or in opposition to the relief requested. Cross-examination shall only be permitted in the discretion of Council.

Borough Council shall render a decision on a petition and mail a written decision to you within sixty (60) days after the date a complete and accurate petition is received by the Borough. The decision need not contain any findings of fact or conclusions of law. If Council fails to act within that time, the petition shall be deemed approved.

Appeals to Court.

If you were not satiated with the decision of Borough Council on any petition, you may appeal that decision to the Lehigh County Court of Common Pleas within thirty (30) days after the date the decision was mailed to you. You must comply with all of the rules of court for filing such an appeal and so you should consult an attorney. You will be entitled to a hearing on the matter before the court. However, you may only appeal those matters which you presented in your petition and you may not appeal to court if you did not file a timely and complete petition to the Borough Council.

Enforcement Procedure.

If you fail to pay eligible taxes against you, plus interest and penalties, the Borough may bring civil action against you before the local district justice or the Lehigh County Court of Common Peas. If the Borough obtains a judgment against you in this action, the Borough may cause the Sheriff to sell your real or personal property to pay the judgment. The judgment may also become a lien on your real property. The Borough may also collect the taxes from your employer by garnishing a portion of your wages.

You should also be aware that it is a crime to fail, neglect or refuse to file required returns or reports, to file false information or fraudulent returns and to refuse to permit the Tax Collector to examine your books, records and papers. The Borough may prosecute you for these crimes before the district justice.

Confidentiality.

All information obtained by the Borough as a result of any audit,

return, report, investigation, hearing or verification is confidential tax information. Except for official purposes or as provided by law, it is unlawful for the Borough or its officers, employees and agents to:

A. Divulge or make known any such information to any person.

B. Permit any such information or any book containing any abstract or particulars of such information to be seen or examined by any person.

C. Print, publish or make known in any manner any such information.

(Ord. 694, 2/9/1999)

