

Chapter 24

TAXATION

ARTICLE I Realty Transfer Tax

- § 24-1. Imposition of tax.
- § 24-2. Administration.
- § 24-3. Interest.
- § 24-4. Inconsistent ordinances repealed.

ARTICLE II Per Capita Tax

- § 24-5. Short title.
- § 24-6. Definitions.
- § 24-7. Imposition of tax.
- § 24-8. Per capita tax duplicate.
- § 24-9. Notice.
- § 24-10. Collection of tax.
- § 24-11. Employer responsibilities.
- § 24-12. Payroll and employment records.
- § 24-13. Recoverability.
- § 24-14. Taxes, interest, fines and penalties.
- § 24-15. Civil enforcement.
- § 24-16. Applicability.

ARTICLE III Local Taxpayers Bill of Rights

- § 24-17. Short title.
- § 24-18. Definitions.
- § 24-19. Disclosure statement.
- § 24-20. Requirements for requests.
- § 24-21. Refunds of overpayments.
- § 24-22. Interest on overpayment.

- § 24-23. Notice of basis of underpayment.
- § 24-24. Abatement of certain interest and penalty.
- § 24-25. Application of payments.
- § 24-26. Administrative appeals.
- § 24-27. Petitions.
- § 24-28. Practice and procedure.
- § 24-29. Decisions.
- § 24-30. Appeals.
- § 24-31. Equitable and legal principles to apply.
- § 24-32. Installment agreements.
- § 24-33. Confidentiality of tax information.
- § 24-34. Taxes on real property.

ARTICLE IV Earned Income and Net Profits Tax

- § 24-35. Incorporation of statute.
- § 24-36. Imposition of tax.
- § 24-37. Declarations, returns and payment of tax.
- § 24-38. Collection at source.
- § 24-39. Administration.
- § 24-40. Interest and penalties for late payment.
- § 24-41. Violations and penalties.

ARTICLE V Streetlight Assessment

- § 24-42. Levy established; effective date; applicability.
- § 24-43. Liability for payment; manner of assessment.

ARTICLE II
Per Capita Tax
[Adopted 2-11-2003 by Ord. No. 021103]

§ 24-5. Short title.

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

§ 24-6. Definitions.

- A. The following words and phrases when used in this article shall have the meaning ascribed to them, except when the context clearly indicates a different meaning:

EMPLOYER — Any individual, copartnership, association, corporation, governmental body or unit or agency, or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis.

PERSON — Every natural person, copartnership, association or corporation. Whenever used in any clause prescribing and imposing a penalty or both, the term "person" is applied to copartnerships or associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

SECRETARY — The Secretary of the Township of German, Fayette County, Pennsylvania.

TOWNSHIP — The Township of German, Fayette County, Pennsylvania.

TOWNSHIP TAX COLLECTOR — An individual who is elected pursuant to the Second Class Township Code, 53 P.S. § 65406.

TREASURER — The Treasurer of the Township of German, Fayette County, Pennsylvania.

- B. The singular shall include the plural and the masculine shall include the feminine and the neuter.

§ 24-7. Imposition of tax.

A per capita tax of \$5 to provide revenue for general Township purposes is hereby levied, assessed and imposed upon each resident or inhabitant of said Township over the age of 21 years, which said per capita tax shall be paid by each of said residents or inhabitants for the use of said Township for the year beginning January 1, 2003.

§ 24-8. Per capita tax duplicate.

The Secretary shall prepare or cause to be prepared and certify to the Township Tax Collector a per capita tax duplicate which shall contain the names and addresses of all inhabitants or residents of the Township over 21 years of age and the amount of the tax hereby levied, assessed and imposed on each of said inhabitants or residents.

§ 24-9. Notice.

- A. The Township Tax Collector shall, within 30 days after receiving the per capita tax duplicate, notify every taxable person whose name appears on such duplicate. Such notice shall contain the date of the tax notice; the amount of the per capita tax for which the said taxpayer is liable for the current year; a statement that such tax is due and

§ 24-12. Payroll and employment records.

The Township Tax Collector, or any agent or employee of the Township authorized in writing by him, is hereby authorized to examine the payroll records and/or employment records of any employer or supposed employer to ascertain whether or not any of his, her, its or their employees are residents of inhabitants of the Township. Each employer or supposed employer is hereby directed and required to give to the said Township Tax Collector, or his duly authorized agent or employee, the means, facilities and opportunity for such examination and investigation as is hereby authorized.

§ 24-13. Recoverability.

All such taxes shall be recoverable by the Township of German, Fayette County, Pennsylvania, as other debts of like amount are now by law recoverable.

§ 24-14. Taxes, interest, fines and penalties.

All taxes, interest, fines and penalties received, collected or recovered under the provisions of this article shall be paid in the treasury of the Township of German, Fayette County, Pennsylvania, for the use and benefit of the said Township.

§ 24-15. Civil enforcement.

Any person, copartnership or corporation who shall fail, neglect or refuse to comply with the terms or provisions of this article or any regulation or requirement pursuant thereto and authorized thereby, shall, in addition to other fines or penalties provided by law or imposed by any other section of this article or by any other law of this commonwealth, be subject to a civil enforcement proceeding initiated by the Township or its designee and brought before a Magisterial District Judge and initiated by the Township or its designee in accordance with the Pennsylvania Rules of Civil Procedure, with such ordinance being enforced at law or in equity, and upon finding of liability, shall subject the person, copartnership or corporation to a civil penalty of not less than \$25 and not more than \$600 per violation, in addition to other remedies at law or in equity, including additional daily penalties for continuing violations, court costs and reasonable attorney's fees.

§ 24-16. Applicability.

This article shall not apply to any employer as to whom or which it is beyond the legal power of the Township Supervisors of the Township of German, Fayette County, Pennsylvania, to impose the duties herein provided for.

VOLUNTARY PAYMENT — A payment of an eligible tax made pursuant to the free will of the taxpayer. The term does not include a payment made as a result of distraint or levy or pursuant to a legal proceeding in which the borough is seeking to collect its delinquent taxes or file a claim therefor.

§ 24-19. Disclosure statement.

- A. Contents. The Township shall prepare a statement which sets forth the following in simple and nontechnical terms:
- (1) The rights of a taxpayer and the obligation of the Township during an audit or an administrative review of the taxpayer's books or records.
 - (2) The administration and judicial procedures by which a taxpayer may appeal or seek review of any adverse decision of the Township.
 - (3) The procedure for filing and processing refund claim and taxpayer complaints.
 - (4) The enforcement procedures.
- B. Distribution. The Township shall notify any taxpayer contacted regarding the assessment, audit, determination, review or collection of an eligible tax of the availability of the statement under Subsection A. The Township shall make copies of the statement available to taxpayers upon request at no charge to the taxpayer, including mailing costs. The notification shall be stated as follows:

"You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes by calling the Township of German at 724-737-5130 during normal business hours."

§ 24-20. Requirements for requests.

- A. Minimum time period for taxpayer response.
- (1) The taxpayer shall have at least 30 calendar days from the mailing date to respond to request for information by the Township. The Township shall grant additional reasonable extensions upon application for good cause.
 - (2) The Township shall notify the taxpayer of the procedures to obtain an extension in its initial request.
 - (3) The Township shall take no lawful action against a taxpayer for the tax year in question until the expiration of the applicable response period, including extensions.
- B. Requests for prior year returns.
- (1) Except as provided in Subsection B(2) an initial inquiry by the Township regarding a taxpayer's compliance with any eligible tax may include taxes required to be paid

C. Exceptions.

(1) No interest shall be allowed if an overpayment is refunded or applied against any other tax, interest or penalty due the Township within 75 days after the last date prescribed for filing the report of the tax liability or within 75 days after the date the return or report of the liability due is filed, whichever is later.

(2) Overpayments of interest or penalty shall not bear any interest.

D. Acceptance of refund check. The taxpayer's acceptance of the Township check shall not prejudice any right of the taxpayer to claim an additional overpayment and interest thereon. Tender of a refund check by the Township shall be deemed to be acceptance of the check by the taxpayer for purposes of this section.

E. Definitions. As used in this section, the following words and phrases shall have the meaning given to them in this section:

DATE OF OVERPAYMENT — The later of the date paid or the date tax is deemed to have been overpaid as follows:

(1) Any tax actually deducted and withheld at the source shall be deemed to have been overpaid on the last day of filing the report for the tax period, determined without regard to any extension of time for filing.

(2) Any amount overpaid as estimated tax for the tax period shall be deemed to have been overpaid on the last day for filing the final report for the tax period, determined without regard to any extension of time for filing.

(3) An overpayment made before the last day prescribed for payment shall be deemed to have been paid on the last day.

(4) Any amount claimed to be overpaid with respect to which a lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid 60 days following the date of initiation of the review or procedure.

(5) Any amount shown not to be due on an amended income or earned income and net profits tax return shall be deemed to have been overpaid 60 days following the date of filing of the amended income tax return.

DATE OF RESOLUTION — The date the overpayment is refunded or credited as follows:

(1) For a cash refund, a date preceding the date of the Township's refund check by not more than 30 days.

(2) For a credit for an overpayment.

(a) The date of the Township's notice to the taxpayer of the determination of the credit; or

(b) The due date for payment of the tax against which the credit is applied, whichever first occurs. For a cash refund of a previously determined credit,

- (2) This subsection shall not be construed to require the Township to provide written advice to taxpayers.

§ 24-25. Application of payments.

Unless otherwise specified by the taxpayer, all voluntary payments of an eligible tax shall be prioritized by the Township as follows:

- A. Tax.
- B. Interest.
- C. Penalty.
- D. Any other fees or charges.

§ 24-26. Administrative appeals.

A political subdivision levying an eligible tax shall establish an administrative process to receive and make determinations on petitions from taxpayers relating to the assessment, determination or refund of an eligible tax. The administrative process shall consist of any one of the following:

- A. Review and decision or hearing and decision by the Township Tax Appeals Board appointed by the Board of Supervisors. The Board shall consist of at least three but not more than seven members. Qualifications for service to the Board and compensation, if any of the members shall be determined by the Board of Supervisors. The Board of Supervisors may enter into agreements with other political subdivisions to establish a joint local tax appeal board.
- B. Review and decision by the Board of Supervisors in executive session.
- C. A hearing and decision by a hearing officer appointed by the Board of Supervisors. The Board of Supervisors shall determine the qualifications and compensation, if any, of the hearing officer.
- D. An administrative review or appeal process existing on the effective date of this article that is substantially similar to the procedures in Subsection A, B or C.

§ 24-27. Petitions.

- A. Filing. A petition is timely filed if the letter transmitting the petition is postmarked by the United States Postal Service on or before the final day on which the petition is required to be filed. Deadlines for filing petitions are as follows:
 - (1) Refund petitions shall be filed within three years after the due date for filing the report as extended or one year after actual payment of an eligible tax, whichever is later. If no report is required, the petition shall be filed within three years after the

- (b) The Township believes that collection of any eligible tax under the agreement is in jeopardy.
 - (3) If the Township finds that the financial condition of the taxpayer has significantly changed, the Township may alter, modify or terminate the agreement, but only if:
 - (a) Notice of the Township's finding is provided to the taxpayer not later than 30 days prior to the date of such action; and
 - (b) The notice contains the reasons why the Township believes a significant change has occurred.
 - (4) The Township may alter, modify or terminate an agreement entered into by the Township under Subsection A if the taxpayer fails to do any of the following:
 - (a) Pay any installment at the time the installment is due under such agreement.
 - (b) Pay any other tax liability at the time liability is due.
 - (c) Provide a financial condition update as requested by the Township.
- C. Prepayment permitted. Nothing in this section shall prevent a taxpayer from prepaying in whole or in part any eligible tax under any agreement with the Township.

§ 24-33. Confidentiality of tax information.

- A. Any information gained by the Township as a result of any audit, return, report, investigation, hearing or verification shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for the Township to:
- (1) Divulge or make known in any manner any confidential information gained in any return, investigation, hearing or verification to any person.
 - (2) Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person.
 - (3) Print public or make known in any manner any confidential tax information.
- B. An offense under this section is a misdemeanor of the third degree and, upon conviction thereof, a fine of not more than \$25,000 and cost, or a term of imprisonment for not more than one year, or both, may be imposed. If the offender is an officer or employee of the Township, the officer or employee shall be dismissed from office or discharged from employment.

§ 24-34. Taxes on real property.

Except as provided in § 24-22 (Interest on Overpayment) this article shall not apply to any tax on real property.

- C. Every taxpayer whose earnings are not subject to collection at the source, shall make and file with the officer quarterly returns and shall pay quarter-annually the amount of tax shown as due on such returns all as provided in § 6913, III, (B) (2) of the Local Tax Enabling Act .
- D. The officer is hereby authorized to provide by regulation, subject to the approval of the Board of Supervisors, that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, or commissions of any employee, and paid by him or them to the officer shall be accepted as the return required of any employee whose sole income, subject to the tax or taxes under this article, is such salary, wages or commissions.

§ 24-38. Collection at source.

Every employer having an office, factory, workshop, branch, warehouse or other place of business within the Township who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall register with the officer, deduct the tax imposed by this article on the earned income of his employee or employees and shall make and file quarterly returns and final returns and pay quarterly to the officer the amount of taxes deducted, all as provided in § 6913, IV, of the Local Tax Enabling Act.

§ 24-39. Administration.

The Earned Income Tax Officer shall be selected from time to time by resolution of, and shall receive such compensation for his services and expenses as determined from time to time by the Board of Supervisors. Such officer shall have the powers and duties, and shall be subject to the penalties as provided in § 6913, V, VI and VII of the Local Tax Enabling Act.

§ 24-40. Interest and penalties for late payment.

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

§ 24-41. Violations and penalties.

- A. Any person who fails, neglects or refuses to make any declaration or return required by this article, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the officer or any agent designated by him to examine his books, records and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this article, shall, upon

Chapter 25
(RESERVED)