

Chapter 188

TAXATION

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[HISTORY: Adopted by the Borough Council of the Borough of Dallastown as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Earned Income Tax
[Adopted 10-9-1967 by Ord. No. 252]

§ 188-1. Title.

This article shall be known as the "Dallastown Borough Earned Income Tax Ordinance."

§ 188-2. Definitions.

The following words and phrases when used in this article, including the various portions of this section thereof, shall have the meanings ascribed to them in this section.

ASSOCIATION — A partnership, limited partnership or any other unincorporated group of two or more persons.

BUSINESS — An enterprise, activity profession or any other undertaking of all unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association or any other entity.

CORPORATION — A corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency.

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

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

EARNED INCOME — Compensation as determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and regulations in 61 Pa.Code Pt. I Subpt. B Art. V (relating to personal income tax). Employee business expenses

1. Editor's Note: See 72 P.S. § 7101 et seq.

are allowable deductions as determined under Article III of the Tax Reform Code of 1971. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income. **[Amended 6-9-2003 by Ord. No. 494]**

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

2. Editor's Note: Said ordinance provided for an effective date of from and after 2-7-2003.

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

NET PROFITS — The net income from the operation of a business, profession, or other activity, except corporations, determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971³," and regulations in 61 Pa.Code Pt. I Subpt. B Art. V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include: **[Amended 6-9-2003 by Ord. No. 494⁴]**

- A. Any interest earnings generated from any monetary accounts or investment instruments of the farming business;
- B. Any gain on the sale of farm machinery;
- C. Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes; and
- D. Any gain on the sale of other capital assets of the farm.

NONRESIDENT — A person, partnership, association or other entity domiciled outside the taxing district.

PERSON or INDIVIDUAL — A natural person.

PRECEDING YEAR — The calendar year before the current year.

RESIDENT — A person, partnership, association or other entity domiciled in the taxing district.

SUCCEEDING YEAR — The calendar year following the current year.

TAXPAYER — A person, partnership, association or any other entity required hereunder to file a return of earned income or net profits or to pay a tax thereon.

§ 188-3. Levy of tax.

- A. A tax of 1/2 of 1% for general revenue purposes is hereby imposed on salaries, wages, commissions, net profits and other compensation earned by residents of Dallastown Borough, York County, Pennsylvania.
- B. The tax levied under this article shall be applicable to earned income received and to net profits earned in the period beginning January 1 of the current year and ending December 31 of the current year or for taxpayer fiscal years beginning in the current year. The tax shall continue in force on a calendar year or taxpayer fiscal year basis without annual enactment.

3. Editor's Note: See 72 P.S. § 7101 et seq.

4. Editor's Note: Said ordinance provided for an effective date of from and after 2-7-2003.

§ 188-4. Declaration and payment of tax.**A. Net profits.**

- (1) Every taxpayer making net profits shall pay to the officer an annual payment of tax due on or before April 15 of the succeeding year for the period beginning January 1 and ending December 31 of the current year.
- (2) Every taxpayer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

B. Earned income.

- (1) Annual earned income tax return. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of earned income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
- (2) Earned income not subject to withholding. Every taxpayer who is employed for a salary, wage, commission or other compensation and who received any earned income not subject to the provisions relating to collection at source shall make and file with the officer on a form prescribed or approved by the officer an annual return setting forth the aggregate amount of earned income not subject to withholding from him during the period beginning January 1 and ending December 31 of the current year, and such other information as the officer may require, and pay to the officer the amount of tax shown as due thereon on or before April 15 of the succeeding year.

§ 188-5. Duties of employers; collection at source. [Amended 8-8-2005 by Ord. No. 532^s]

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district, who 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 after becoming an employer, register with the York Area Tax Bureau or other designated tax officer such employer's name and address and such other information as such tax officer may require.
- B. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district, who employs one or more persons, other than domestic

5. Editor's Note: This ordinance also provided for an effective date of 1-1-2006.

servants, for a salary, wage, commission or other compensation, shall deduct at the time of payment thereof the tax imposed by this article on the earned income due to such employer's employee or employees and shall, on or before April 30 of the then-current year, July 31 of the then-current year, October 31 of the then-current year and January 31 of the succeeding year, file a return and pay to the York Area Tax Bureau or other designated tax officer the amount of taxes deducted during the preceding three-month periods ending March 31 of the then-current year, June 30 of the then-current year, September 30 of the then-current year and December 31 of the then-current year, respectively. Such return, unless otherwise agreed upon between the officer and employer, shall show the name and social security number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total income of all such employees during such preceding three-month period and the total tax deducted therefrom and paid with the return. Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax or any part thereof or who has failed to pay over the proper amount of tax to the taxing authority may be required by the York Area Tax Bureau or other designated tax officer to file such employer's return and pay the tax monthly. In such cases, payments of tax shall be made to the York Area Tax Bureau or other designated tax officer on or before the last day of the month succeeding the month for which the tax was withheld.

- C. Every employer shall deduct or withhold from employees, exclusive of domestic servants and Maryland residents, at the following rates:
- (1) Resident taxpayers at the applicable rates imposed by the Borough of Dallastown and the Dallastown Area School District of the resident taxpayer's earned income and net profits.
 - (2) Nonresident taxpayers at the rate of no less than 1% of the nonresident taxpayer's earned income and net profits.
- D. On or before February 28 of the succeeding year, every employer shall file with the York Area Tax Bureau or other designated tax officer:
- (1) An annual return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to such officer for the period beginning January 1 of the then-current year and ending December 31 of the then-current year.
 - (2) A return withholding statement 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 then-current year setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivision imposing the tax upon such employee and the amount of tax paid to the York Area Tax Bureau or other designated tax officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

- E. Every employer who discontinues business prior to December 31 of the then-current year shall, within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.
- F. Except as otherwise provided in § 188-10, every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which such employer is required to withhold to the extent that such taxes have not been recovered from the employee.
- G. 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 tax or from complying with the requirements of this article relating to the filing of declarations and returns.
- H. No employer shall be required to register, deduct or withhold taxes, file returns or pay taxes with regard to domestic servants or residents of Maryland.

§ 188-6. Powers and duties of officers.

- A. It shall be the duty of the officer to collect and receive the cause, fines and penalties imposed by ordinance or resolution. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.
- B. Each officer, before entering upon his official duties, shall give and acknowledge a bond to the political subdivision or political subdivisions appointing him. If such subdivision or political subdivisions shall by resolution designate any bond previously given by the officer as adequate, such bond shall be sufficient to satisfy the requirements of the subsection.
 - (1) Each such 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 duly licensed by the Insurance Commissioner of this commonwealth.
 - (2) Each bond shall be conditioned upon the faithful discharge by the officer, his clerks, assistants and appointees of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required of him by virtue of his office, upon the just and faithful accounting or payment over, according to law, of all moneys and all balances thereof paid to, received or held by him by virtue of his office and upon the delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office.
 - (3) Each such bond shall be taken in the name of the appointing authority or authorities and shall be for the use of the political subdivision or political subdivisions appointing the officer and for the use of such other person or persons for whom money shall be collected or received or as his or her interest shall otherwise appear in case of a breach of any of the conditions thereof by the acts or neglect of the principal on the bond.
 - (4) The political subdivision or political subdivisions appointing the officer or any person may sue upon said bond in its or his own name for its or his own use.

- (5) Each bond shall contain the name or names of the surety company or companies bound thereon. The political subdivision or political subdivisions appointing the officer shall fix the amount of the bond at an amount equal to the maximum amount of taxes which may be in the possession of the officer at any given time.
 - (6) The political subdivision or political subdivisions appointing the officer may, at any time, upon cause shown and due notice to the officer and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to such political subdivisions for the purpose of making the bond sufficient in amount, without releasing the surety first approved from any accrued liability or previous actions on such bond.
 - (7) The political subdivision or political subdivisions appointing the officer shall designate the custodian of the bond required to be given by the officer.
- C. The officer charged with the administration and enforcement of the provisions of this article is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the reexamination 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 article. No rate or regulation of any kind shall be enforceable unless it has been approved by resolution of the governing body. A copy of such rules and regulations currently in force shall be available for public inspection.
- D. The officer shall refund, on petition of and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.
- E. The officer and agents designated by him are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the officer reasonably believes to be an employer or taxpayer in order to verify the accuracy of any declaration or return or, if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the officer reasonably believes to be an employer or taxpayer is hereby directed and required to give to the officer or to any agent designated by him the means, facilities and opportunity for such examination and investigations as are hereby authorized.
- F. Any information gained by the officer, his agents or by any other official or agent of the taxing district as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this article shall be confidential except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.
- G. The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

§ 188-7. Compensation of Income Tax Officer.

The Income Tax Officer shall receive such compensation for his services and expenses as shall be determined by the Borough Council of the Borough of Dallastown.

§ 188-8. Suit for collection of tax.

- A. The officer may sue in the name of the taxing district for the recovery of taxes due and unpaid under this article.
- B. Any suit brought to recover the tax imposed by this article shall be begun within three years after such tax is due or within three years after the declaration or return has been filed, whichever date is later: provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:
- (1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of this article, there shall be no limitation.

- (2) Where an examination of the declaration or return filed by any person or of other evidence relating to such declaration or return in the possession of the officer reveals a fraudulent evasion of taxes, there shall be no limitation.
 - (3) In the case of substantial understatement of tax liability of 25% or more and no fraud, suit shall be begun within six years.
 - (4) Where any person has deducted taxes under the provisions of this article and has failed to pay the amounts so deducted to the officer or where any person has willfully failed or omitted to make the deductions required by this section, there shall be no limitation.
 - (5) This section shall not be construed to limit the governing body from recovering delinquent taxes by any other means provided by this article.
- C. The officer may sue for recovery of an erroneous refund, provided that such suit is begun two years after making such refund, except that the suit may be brought within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

§ 188-9. Interest and penalties.

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 1% 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 therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

§ 188-10. 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 who 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 conviction thereof, be punishable by a fine of not more than \$600, plus costs of prosecution, and in default of payment of such fine and costs by imprisonment for not more than 30 days.⁵
- B. Any person who divulges any information which is confidential under the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$600,

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

plus costs of prosecution, and in default of payment of such fine and costs by imprisonment for not more than 30 days. [Amended 4-13-1998 by Ord. No. 432]

- C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this article.
- D. The failure of any person to receive or procure forms required for making the declaration or returns required by this article shall not excuse him from making such declaration or return.

§ 188-11. Applicability.

This article shall not apply to any person or property as to whom or which it is beyond the legal power of Dallastown Borough to levy, assess and impose the tax or duties as herein provided.

ARTICLE II

Rental Occupancy

[Adopted 12-17-1973 by Ord. No. 286]

§ 188-12. Notification of residency required.

From and after the date of the passage of this article, every owner, operator or manager of any facility or structure in which persons may occupy or reside within the Borough of Dallastown, including but not limited to hotels, apartments, rooming houses, boardinghouses, homes, mobile homes and trailers, shall, at the beginning of such occupancy or residency by natural persons, notify the Borough Secretary within 20 days from the date of such occupancy or residency of the number and the names of such occupants or residents over 18 years of age.

§ 188-13. Violations and penalties. [Amended 4-13-1998 by Ord. No. 432]

Any person or corporation charged with the duty of making such notification as set forth in § 188-12 of this article who shall fail to make such notification shall, upon conviction thereof, be punishable by a fine of not more than \$600, plus costs of prosecution, and in default of payment of such fine and costs by imprisonment for not more than 30 days.

ARTICLE III

Local Services Tax

[Adopted 12-10-2007 by Ord. No. 549⁷]

§ 188-14. Title.

This article shall be known and may be cited as the "Dallastown Local Services Tax Ordinance."

7. Editor's Note: This ordinance repealed former Art. III, Occupation Privilege Tax, adopted 12-30-1978 by Ord. No. 317, as amended.

§ 188-15. Legislative authority.

This article is enacted under the authority of the Local Tax Enabling Act,⁸ as amended by Act No. 7 of 2007.

§ 188-16. Definitions.

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

COLLECTOR — The person or firm from time to time designated by motion of the Borough Council of the Borough of Dallastown to collect and administer the provisions of this article and collect the tax levied by this article. Until changed by subsequent motion, the collector shall be the York Area Tax Bureau.

COMBINED RATE — The aggregate annual rate of the local services tax levied by the Dallastown Area School District and by the Borough of Dallastown.

EARNED INCOME — Compensation, as determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971,"⁹ and regulations in 61 Pa. Code Part I, Subpart B, Article V.¹⁰ (relating to personal income tax), not including, however, wages or compensation paid to individuals on active military service. Employee business expenses are allowable deductions as determined under Article III of the Tax Reform Code of 1971. Any housing allowance provided to a member of the clergy shall not be taxable as earned income.

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

HE, HIS or HIM — Includes the singular and plural number and male, female and neuter genders.

NET PROFITS — The net income from the operation of a business, profession or other activity (except from corporations), determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and regulations in 61 Pa. Code Part I, Subpart B, Article V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming the term shall not include:

- A. Any interest generated from monetary accounts or investment instruments of the farming business;
- B. Any gain on the sale of farming machinery;

8. Editor's Note: See 53 P.S. § 6901 et seq.

9. Editor's Note: See 72 P.S. § 8102-C.

10. Editor's Note: See 101 Pa Code § 101.1 et seq.

- C. Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes; and
- D. Any gain on the sale of other capital assets of the farm.

OCCUPATION — Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the jurisdictional limits of the Borough of Dallastown for which compensation is charged or received, whether by salary, wages, commissions, fees or net profits for services rendered.

RESERVE COMPONENT OF THE ARMED FORCES — The United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, The Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

TAX — The local services tax levied by and pursuant to this article.

YEAR — A calendar year.

§ 188-17. Levy of tax.

- A. A local services tax is hereby levied and imposed on every individual engaging in an occupation within the jurisdictional limits of The Borough of Dallastown in the amount of \$10 per annum, beginning the first day of January 2008 and continuing on a calendar basis annually thereafter until modified or repealed by subsequent ordinance.
- B. This tax is in addition to all other taxes of any kind or nature heretofore or hereafter levied by the Borough of Dallastown.
- C. The Borough of Dallastown shall use the revenue derived from this tax for the following purposes; provided, however, that no less than 25% of the funds derived from this tax shall be used for emergency services, as defined below:
 - (1) Emergency services, which shall include emergency medical services, police services and fire services or any one or a combination of the same.
 - (2) Road construction and road maintenance or either of the same.
 - (3) Reduction of property taxes.
 - (4) Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S.A. Chapter 85, Subchapter F¹¹ (relating to homestead property exclusion), and in accordance with Section 22.6 of Act 7 of 2007, as amended from time to time, if the same is implemented.

§ 188-18. Duty of employer to collect.

- A. Each employer within the Borough of Dallastown and each employer situated outside the Borough of Dallastown who engages in business within the Borough of Dallastown is

11. Editor's Note: See 53 Pa.C.S.A. § 8581 et seq.

hereby charged with the duty of collecting the tax from each of the employees engaged by the employer and performing work for the employer within the Borough of Dallastown. Each person subject to the tax shall be assessed a pro-rata share of the tax for each payroll period in which the person is engaging in an occupation.

- B. The pro-rata share of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the local services tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro-rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest 1/100 of a dollar.
- C. Employer collection of the local services tax shall be made on a payroll-period basis for each payroll period, beginning with the first payroll period in which the person is engaging in an occupation.
- D. No employer shall be held liable for failure to withhold the local services tax or for the payment of the withheld tax money to the Borough of Dallastown if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed.

§ 188-19. Returns.

Employers are required to make and file a local services tax quarterly return 30 days after the end of each quarter of a calendar year. The local services tax quarterly return shall list the name, address and social security number of the employee; the physical address of the employee's place of employment; the number of payroll periods for which the local services tax was withheld; and the amount of local services tax being remitted for each employee.

§ 188-20. Dates for determining tax liability and payment.

Each employer shall use his employment and payroll records from the first day of January to March 31 each year for determining the number of employees from whom said tax shall be deducted and paid over to the collector on or before April 30 of the same calendar year. Supplemental reports shall be made by each employer on July 30, October 30 and January 31 for new employees as reflected on his employment and payroll records from April 1 to June 30, July 1 to September 30 and October 1 to December 31, and payments on these supplemental reports shall be made on July 30, October 30 and January 30, respectively.

§ 188-21. Individuals engaged in more than one occupation or employed in more than one political subdivision.

- A. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during the payroll period, the priority of claim to collect the local services tax shall be in the following order:

- (1) The political subdivision in which a person maintains his principal office or is principally employed;
 - (2) The political subdivision in which the person resides and works, if the tax is levied by that political subdivision;
 - (3) The political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.
- B. In the case of concurrent employment, an employer shall refrain from withholding the local services tax if the employee provides:
- (1) A recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of local services tax withheld; and
 - (2) A statement from the employee that the pay statement is from the employee's principal employer, and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence.
- C. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. It is the intent of this section that no person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

§ 188-22. Exemptions.

- A. The following persons are exempt from the local services tax:
- (1) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total, one-hundred-percent-permanent disability.
 - (2) Any person who serves as a member of a reserve component of the Armed Forces and is called to active duty at any time during the taxable year.
- B. If, at any time in the future, Dallastown increases the amount of the local services tax to be more than \$10 per annum, then any person whose total earned income and net profits from all sources within the Borough of Dallastown is less than \$12,000 for the calendar year in which such increased local services tax is levied shall be exempt from paying the same. At the effective date of this article and until the amount of the local services tax is increased as aforesaid, such persons are not exempt from the local services tax imposed under this article.
- C. A person seeking to claim an exemption from the local services tax must annually file an exemption certificate with the collector of the tax for Dallastown and file a copy of the certificate with the person's employer affirming the relevant, applicable facts on which

the exemption is claimed. In the event the exemption is claimed under Subsection A, the employee shall attach to the exemption certificate a copy of the employee's orders directing the employee to active duty status or shall attach a copy of the employee's discharge orders and a statement from the Veterans' Administrator documenting the disability, as the case may be. In the event the exemption is claimed under Subsection B, if applicable, the exemption certificate shall have attached to it a copy of all of the employee's last pay stubs or W-2 forms from employment within the Borough of Dallastown for the year prior to the fiscal year for which the employee is requesting to be exempted from the local services tax.

- D. Upon receipt of the exemption certificate and until otherwise instructed by the collector of the tax for the Borough of Dallastown, the employer shall not withhold the tax from the person during the calendar year or remainder of the calendar year for which the exemption certificate applies. With respect to a person who claimed an exemption from the local services tax, upon notification to an employer by the person or by the collector of the tax for the Borough of Dallastown that the person is or has become ineligible for the tax exemption for that calendar year or that the person has received earned income and net profits from all sources within the Borough of Dallastown equal to or in excess of \$12,000 in that calendar year if the person had claimed an exemption under Subsection B or upon an employer's payment to the person of earned income within the Borough of Dallastown in an amount equal to or in excess of \$12,000 in that calendar year if the person had claimed an exemption under Subsection B, an employer shall withhold the local services tax from the person as follows:
- (1) If a person who claimed an exemption from the tax for a given calendar year becomes subject to the tax for the calendar year the employer shall withhold the tax for the remainder of that calendar year.
 - (2) The employer shall withhold from the person, for the first payroll period after receipt of the notification under the above subsection, a lump sum equal to the amount of the tax that was not withheld from the person due to the exemption certificate filed by the person, plus the per-payroll amount due for that first payroll period.
 - (3) The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees,
- E. In the event the employment of a person subject to withholding of the local services tax under this exception is severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the Borough of Dallastown may pursue collection under this act.
- F. Except as provided for in Subsection D above, employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.
- G. Employers shall be responsible for retaining a copy of all exemption certificates filed by employees within a given calendar year for a minimum of three years. Employers who have failed to withhold the local services tax from an employee or employees and do not have copies of the employee exemption certificate or certificates will be held responsible

for the payment of the local services tax as if the tax had been originally levied against the employer.

§ 188-23. Self-employed individuals.

All self-employed individuals and individuals whose employer is not required to withhold local taxes (e.g., certain state and federal agencies) will be billed quarterly for the local services tax. The full amount of tax must be paid by the date indicated on such billing. If such taxpayer qualifies for an applicable exemption, the taxpayer may complete the required exemption certificate or make application for a refund of the tax paid.

§ 188-24. Employees and self-employed individuals residing beyond the limits of Dallastown borough.

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

§ 188-25. Duty of collector; administration and enforcement of tax.

- A. It shall be the duty of the collector to accept and receive payments of this tax and keep a record thereof showing the amount received by the collector from each employer or self-employed person, together with the date the tax was received. It shall be the duty of the collector to accept and keep a record of the information submitted by employers relating to the number of employees subject to the tax, the number of employees exempt from the tax, the employee exemption certificates and refunds of the tax paid to individuals and employers. It further shall be the duty of the collector, on behalf of the Borough of Dallastown, to provide a taxpayer a receipt of payment upon written request of the taxpayer.
- B. The collector is hereby charged with the administration and enforcement of this article and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of the payroll records of any employer subject to this article; the examination and correction of any return made in compliance with this article; and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the collector shall have the right to appeal to the Court of Common Pleas of York County.

- C. The collector is hereby authorized to examine the books and payroll records of any employer and any self-employed individual in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer and self-employed individual is hereby directed and required to give the collector the means, facilities and opportunity for such examination.

§ 188-26. Recovery of unpaid tax; interest; penalty for nonpayment.

- A. In the event any of the tax under this article remains due or unpaid 30 days after the due date set forth above, the collector may sue for the recovery of such tax due or unpaid, together with interest and penalty.
- B. 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 10% 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, including, but not limited to, attorneys' fees.

§ 188-27. Violations and penalties.

Whoever makes any false or untrue statement on any return required by this article or who refuses inspection of his books, records or accounts in his custody and control in order to determine the number of employees subject to this tax who are in his employment or who fails or refuses to file any return required by this article or fails or refuses to pay the tax herein levied shall, upon conviction, be sentenced to pay a fine of not more than \$600, plus costs, and, in default of payment of said fine and costs, be sentenced to a term of imprisonment not to exceed 30 days. 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 failed or refused to file a return required by this article.

§ 188-27.1. Refunds.

- A. Refunds are to be paid within 75 days of a refund request or 75 days after the last day the employer is required to remit the local services tax for the last quarter of the calendar year under Section 9 of Act 7, whichever is later, and shall not be subject to interest if paid within the allowed time.
- B. Refunds shall only be provided for amounts overpaid in a calendar year that exceed \$1.
- C. Refund due to duplication of payment. If at any time during the calendar year a taxpayer pays more than \$52 in combined local services tax, the taxpayer may apply for a refund of the amount over \$52. The proper refund request form must be completed and signed by the taxpayer and necessary documentation must be included. These refunds may be processed at the time they are received unless there is reason to believe that the collector will not receive the tax from the employer.
- D. In the event the exemption becomes applicable for persons whose total earned income and net profits is less than \$12,000 for the calendar year as set forth above and if any

person who has not filed an exemption certificate for the same but discovers at the end of the calendar year that such person's earned income and net profits are less than the threshold allowing such exemption, then such person may complete a refund application and include a copy of the necessary documentation for the same.

ARTICLE IV

Real Estate Tax Certifications

[Adopted 11-11-1991 by Ord. No. 401]

§ 188-28. Provision of certifications; fee. [Amended 4-13-1998 by Ord. No. 432]

In recognition of the importance and significance of real estate tax certifications to the smooth and effective flow of commerce within the local real estate market, the Borough of Dallastown does hereby approve of the providing of real estate tax certifications by its elected Tax Collector, and does further hereby authorize said Tax Collector to collect and retain a fee for providing such additional service. The particular fee as imposed and established will be set by resolution of the Borough Council. Said fee may be amended from time to time by resolution of the Council of the Borough of Dallastown.

ARTICLE V

Realty Transfer Tax

[Adopted 2-11-2002 by Ord. No. 480¹²]

§ 188-29. Imposition of tax; rate; collection.

- A. A realty transfer tax is hereby imposed under the authority of the Act of December 31, 1965, P.L. 1257, known as "The Local Tax Enabling Act," upon the transfer of real property, or of any interest in real property, situate within the Borough of Dallastown, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfer take place.
- B. The rate of this realty transfer tax shall be 1/2 of 1% of the value of the real property or of the interest in real property involved in such transfer.
- C. This realty transfer tax shall be collected by the York County Recorder of Deeds.
- D. If the correct amount of the realty transfer tax is not paid by the last date prescribed for timely payment under § 1102-C of the Tax Reform Code of 1971, 72 P.S. § 8102-C, then pursuant to the authority granted in § 1102-D of said Code, 72 P.S. § 8102-D, Dallastown Borough hereby authorizes and directs the Pennsylvania Department of Revenue to determine, collect and enforce the tax, together with interest thereon at the rate of 10% per annum as authorized at 53 Purdon's Statutes § 7143, and penalties.
[Added 1-8-2007 by Ord. No. 544]

12. Editor's Note: This ordinance provided an effective date of 7-1-2002.

§ 188-30. Liability for unpaid taxes.

The transferee of any real property or any interest in real property located within Dallastown Borough shall be and remain liable for any unpaid realty transfer taxes imposed by this article.

§ 188-31. Exceptions.

The exceptions from the levying, assessment and collection of this realty transfer tax by a Borough set forth in Section 2(1) of The Local Tax Enabling Act, 53 P.S. § 6902(1), or any amendment or restatement thereof, are hereby incorporated herein and shall apply to the realty transfer tax imposed by this article.

§ 188-32. Continuation of tax without annual reenactment.

This realty transfer tax shall continue in force on a calendar-year basis without annual reenactment unless the rate of this tax is hereafter changed; and if this realty transfer tax is included within any annual tax ordinance for Dallastown Borough, such inclusion will not constitute a reenactment of this article but only a recognition of its continuing in force.

ARTICLE VI

Per Capita Tax

[Adopted 12-10-2007 by Ord. No. 550]

§ 188-33. Title.

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

§ 188-34. Legislative authority.

This article is enacted under the authority of the Local Tax Enabling Act,¹³ Act of December 31, 1965, P.L. 1257, as amended.

§ 188-35. Levy of tax.

- A. A per capita tax of \$10 per annum is hereby levied upon each resident of the Borough of Dallastown who has attained the age of 18 years and older, beginning on the first day of January 2008, and continuing on a calendar basis annually thereafter until modified or repealed by subsequent ordinance.
- B. A person is a resident, and subject to this per capita tax, as long as such person is a resident in the Borough during any part of the said fiscal year whatsoever.

13. Editor's Note: See 53 P.S. § 6901 et seq.

- C. This per capita tax is in addition to all other taxes of any kind or nature heretofore or hereafter levied by the Borough of Dallastown.
- D. All provisions of the aforesaid Local Tax Enabling Act, as amended from time to time, relating to a per capita tax shall apply.

§ 188-36. Discount; penalty.

- A. All taxpayers subject to paying the per capita tax shall be entitled to a discount of 2% from the amount of such tax upon making payment of the whole amount thereof within two months after the date of the tax notice therefor.
- B. All taxpayers charged with the per capita tax who fail to pay the same in full within four months after the date of the tax notice, which four-month term shall end no later than June 15 of the tax year, shall be charged a penalty of 10% of the face amount of such tax, which penalty shall be added to the face amount of such tax by the tax collector and collected by the tax collector. The reasonable costs incurred to provide notices, pursue similar procedures and collect a delinquent per capita tax shall be paid by the delinquent taxpayer and the same may be collected by the delinquent tax collector.

