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## **Chapter 152. TAXATION**

[HISTORY: Adopted by the Board of Commissioners of the Township of Abington as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Real estate registry — See Ch. [125](#).

### **Article I. Mercantile License Tax**

[Adopted 11-13-1969 by Ord. No. 1266]

#### **§ 152-1. Definitions.**

The following words and phrases as used in this article shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

**COLLECTOR**[Repealed 2-12-1987 by Ord. No. 1623]

#### **GROSS VOLUME OF BUSINESS**

Includes both cash and credit transactions and trade-in transactions as provided by law.

#### **LICENSE YEAR**

The twelve-month period beginning the first day of January.

#### **PERSON\***

Any individual, partnership, limited partnership, association or corporation (except such as are wholly exempt from taxation under the Local Tax Enabling Act approved December 31, 1965, P.L. 1257, as amended *Editor's Note: See 53 P.S. § 6901 et seq.* ).

#### **RETAIL DEALER OR RETAIL VENDOR\***

Any person who is a dealer in or a vendor of goods, wares and merchandise and who is not a wholesale dealer or vendor or a wholesale and retail dealer or vendor as hereinafter defined.

#### **SECRETARY**

The Secretary of the Township of Abington.

#### **TEMPORARY, SEASONAL OR ITINERANT BUSINESS**

Any business that is conducted at one location for less than sixty consecutive calendar days.

#### **TOWNSHIP**

The Township of Abington.

#### **TREASURER**

The duly elected Treasurer of the Township of Abington.[Added 2-12-1987 by Ord. No. 1623]

#### **WHOLESALE AND RETAIL DEALER OR WHOLESALE AND RETAIL VENDOR\***

Any person who sells to dealers in or vendors of goods, wares and merchandise and to other persons.

#### **WHOLESALE DEALER OR WHOLESALE VENDOR\***

Any person who sells to dealers in or vendors of goods, wares and merchandise and to no other persons.

\* NOTE: These terms shall not include nonprofit corporations or associations organized solely and exclusively for religious, charitable or educational purposes and not conducting any regular or established business competing commercially with any other person subject to the tax herein imposed, nor agencies of the Government of the United States or of the Commonwealth of Pennsylvania, nor any person vending or disposing of articles of such person's own manufacture for shipment or delivery from the place of the manufacture thereof, nor any farmer vending or disposing of such farmer's own produce, nor other transaction exempted by law.

#### **§ 152-2. License.**

[Amended 12-10-1970 by Ord. No. 1293; 2-12-1987 by Ord. No. 1623]For 1987 and each license year thereafter, every person desiring to continue to engage in or hereafter to begin to engage in the business of wholesale or retail, or wholesale and retail, vendor or dealer in goods, wares and merchandise, and any person conducting a restaurant or other place where food, drink or refreshments are sold in the Township, shall, on or before the 15th day of the license year or prior to commencing business in any such license year, apply for and procure a mercantile license for each place of business in the Township, and, if such person has no actual place of business within the Township, then one license from the Secretary of the Township, who shall issue the same upon payment of a fee of \$10, for a wholesale and retail license for one such place of business or, if more than one, for each of such person's places of business in the Township for such license year. Each application for a license shall be signed by the applicant, if a natural person, and, in the case of an association or partnership, by a member or partner thereof and, in the case of a corporation, by an officer thereof. Such licenses shall not be assignable and shall be conspicuously posted at each place of business within the Township at all times. In the case of loss, defacement or destruction of any license, the person to whom the license was issued shall apply to the Secretary for a new license, for which a fee of \$1 shall be charged.

#### **§ 152-3. Tax.**

A. A tax to provide revenue for general Township purposes is hereby levied, assessed and imposed upon every person engaging in any of the following occupations or businesses in the Township at the rate hereinafter set forth, and such persons shall pay a mercantile license tax for the license year at such rate, subject to the exemptions hereinafter set forth; provided, however, that in no event shall the annual mercantile license tax herein imposed be less than \$10 for each of the places of business of every such person:

- (1) Wholesale vendor or dealer in goods, wares and merchandise of every kind, at the rate of one mill on each dollar of the gross volume of business transacted by such person during the license year.
- (2) Retail vendor or dealer in goods, wares and merchandise of every kind, and all persons engaged in conducting restaurants or other places where food, drink or refreshments are sold, at the rate of 1 1/2 mills on each dollar of the gross volume of business transacted by such person during the license year.

[Amended 12-26-1974 by Ord. No. 1390]

- (3) Wholesale and retail vendor or dealer in goods, wares and merchandise of every kind, at the rate of one mill on each dollar of the gross volume of wholesale business transacted and 1 1/2 mills on each dollar of the gross volume of retail business transacted by such person during the license year.

[Amended 12-26-1974 by Ord. No. 1390]

B. The tax provided for in Subsections [A\(1\)](#), [\(2\)](#) and [\(3\)](#) of this section shall not be levied on the dollar volume of business transacted by wholesale and/or retail vendors or dealers derived from the resale of goods, wares and merchandise taken by any vendor or dealer as a 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.

- C. Any wholesale dealer or wholesale vendor who conducts business within the Township may deduct from the tax due the Township such tax as if paid by him on those receipts from sales made into another political subdivision where such sales are subject to a gross receipt tax by that political subdivision. In no event shall said deduction exceed the amount of tax that would have been payable to the Township had the receipts subject to deduction been based on sales made within the Township.

[Added 3-13-1980 by Ord. No. 1505]

- D. Exemption. The first \$2,500 of gross volume of business for each license year commencing after December 31, 1992, shall be exempt from the mercantile license tax.

[Added 8-13-1992 by Ord. No. 1716]

#### § 152-4. Computation of estimated tax.

- A. Every person subject to the payment of the tax hereby imposed who has commenced business at least a full year prior to January 1 of the license year shall compute the gross volume of business upon the actual gross amount of business transacted by such person during the 12 months preceding such January 1.
- B. Every person subject to the payment of the tax hereby imposed who has commenced business less than one full year prior to such January 1 shall compute the gross volume of business by multiplying by 12 the monthly average of the actual gross amount of business transacted by such person during the months while engaged in business prior to such January 1.
- C. Every person subject to the payment of the tax hereby imposed who commences business subsequent to such January 1 shall compute the gross volume of business for the license year upon the gross volume of business transacted by such person during the first month of business multiplied by the number of months remaining in the license year.
- D. Every person subject to the payment of the tax hereby imposed who engages in business which is temporary, seasonal or itinerant by its nature shall compute the gross volume of business upon the actual gross amount of business transacted by such person during the license year.
- E. At the end of the license year and on or before April 15 of the following year, every person subject to the tax hereby imposed shall make a return to the Secretary of the Township of the actual volume of business transacted by the taxpayer during the period for which the taxpayer is subject to the tax. Such final return shall state the amount of the gross volume of business as set forth in the first return, the amount of tax paid at the time of the filing of the first return and the amount of tax due upon the final computation.

[Amended 12-10-1970 by Ord. No. 1293; 2-12-1987 by Ord. No. 1623]

#### § 152-5. Returns.

Every return as hereinafter required by this article shall be made upon a form furnished by the Secretary. Every person making such return shall certify the correctness thereof under the penalties of perjury.

#### § 152-6. First return.

[Amended 2-12-1987 by Ord. No. 1623]

- A. Every person subject to the tax imposed by this article who has commenced business at least one full year prior to the beginning of the license year shall, on or before the 15th day of April following, file with the Treasurer a return setting forth such person's name, business and business address and such other information as may be necessary to compute the actual gross volume of business transacted by such person during the preceding year and the amount of tax estimated to be due.
- B. Every person subject to the tax imposed by this article who has commenced business less than one full year prior to the beginning of the license year shall, on or before the 15th day of April following, file with the Treasurer a return setting forth such person's name, business and business address and such other information as may be necessary to compute the actual gross volume of business transacted by such person during the preceding year and the amount of tax estimated to be due.
- C. Every person subject to the tax imposed by this article who commences business subsequent to the beginning of the license year shall, within 40 days from the date of commencing such business, file with the Treasurer a return setting forth such person's name, business and business address and such other information as may be necessary to compute the actual gross volume of business transacted by such person during the first month of business and the amount of tax estimated to be due.
- D. Every person subject to the payment of the tax imposed by this article who engages in a business which is temporary, seasonal or itinerant by its nature shall, within seven days from the date of completion of such business, file with the Treasurer a return setting forth such person's name, business and business address and such other information as may be necessary in arriving at the actual gross amount of business transacted by such person during such period and the amount of the tax due.

#### § 152-7. Final return.

[Amended 12-10-1970 by Ord. No. 1293; 2-12-1987 by Ord. No. 1623] On or before April 15 of the year following the license year, every person subject to the tax hereby imposed shall make a final return as required by § [152-4E](#).

**§ 152-8. Payment of tax.**

- A. At the time of filing the first return, the person making the same shall pay the amount of the tax estimated to be due.
- B. At the time of filing the final return, if the full amount of the tax due by the taxpayer for the license year has not been paid, the taxpayer shall pay the remaining balance of the tax, which shall be the difference between the amount of the tax paid at the time of making the first return on the estimated computation and the amount of the tax finally shown to be due.

**§ 152-9. Duties of Treasurer; violations and penalties.**

[Amended 2-12-1987 by Ord. No. 1623]

- A. It shall be the duty of the Treasurer to collect and receive the fees, taxes, fines and penalties imposed by this article. It shall also be the duty of the Treasurer to keep a record showing the amount of the tax received and the date of payment. A receipt shall be given to the person paying the tax.
- B. If the Treasurer is not satisfied with the return and payment of tax made by any taxpayer or supposed taxpayer under the provisions of this article, the Treasurer is hereby authorized and empowered to make a determination of the tax due by such person, based upon the facts contained in the return or upon any information within the Treasurer's possession or that shall come into the Treasurer's possession, and for this purpose the Treasurer or the deputy or authorized agent of the Treasurer is authorized to examine the books, papers and records of any such person to verify the accuracy of any return or payment made under the provisions hereof or to ascertain whether the taxes imposed by this article have been paid. Notwithstanding any other provision of this article, any such person who shall refuse to allow such inspection shall be guilty of a summary offense, and upon conviction before a district justice, shall be sentenced to pay a fine of not less than \$100 nor more than \$600, together with the court costs, for each offense. Each day that a person refuses to allow such inspection shall constitute a separate and distinct offense. If no return is filed or if the Treasurer is not satisfied with the return and payment of tax required under the provision of this article, the Treasurer is hereby authorized and empowered to prepare and send, by certified or registered mail, a notice of proposed deficiency to the taxpayer's last known address, based upon the facts contained in the return or upon such information and belief as is available to the Treasurer. For this purpose, the Collector or the deputy or authorized agent of the Treasurer is authorized to request, examine, and obtain from any person legible copies of the books, papers, records and federal and state income tax returns of such person reasonably necessary to verify the accuracy of any return required to be made under the provisions hereof. The Treasurer is hereby authorized and directed to make and keep such records, prepare such forms and take such other measures as may be necessary or convenient to carry this article into effect, and may, in such officer's discretion, require reasonable deposits to be made by licensees who engage in a business which is temporary, seasonal or itinerant by its nature.

[Amended 6-13-2002 by Ord. No. 1878]

- C. If any taxpayer or supposed taxpayer shall neglect or refuse to make any return and payment of tax required by this article, or if, as a result of an investigation by the Treasurer, a return is found to be incorrect, the Treasurer shall estimate the tax due by such person and determine the amount due for taxes, penalties and interest thereon.
- D. The burden is hereby imposed upon any person, firm or corporation claiming an exemption from the payment of the tax hereby imposed to prove by clear and convincing evidence the legal right to such exemption to the satisfaction of the Treasurer.
- E. If the final return of the taxpayer shows an overpayment of the tax by reason of the fact that the gross volume of business as stated in the estimated computation was more than the actual volume of business for the year or by reason of the fact that the taxpayer did not continue to engage in business throughout the year, the Treasurer shall refund to the taxpayer the amount of such overpayment, which shall be the difference between the amount of tax paid upon the filing of the first return and the amount of the tax finally shown to be due.
- F. Any information contained on the returns of a taxpayer and any information obtained as a result of the examination of the books and records of the taxpayer shall be confidential except for official purposes and except for purposes of judicial order.

**§ 152-10. Method of recovery.**

All taxes due and unpaid under this article shall be recoverable by the Township Solicitor as other debts due the Township are now by law recoverable.

**§ 152-11. Interest and penalty.**

[Amended 2-12-1987 by Ord. No. 1623; 12-14-2006 by Ord. No. 1942 *Editor's Note: This ordinance also provided an effective date of 1-1-2007.*] All taxes and estimated taxes due under this article shall bear interest at the rate of 10% per year or daily fractional part of a year from the day they are due and payable until paid. If any taxpayer shall neglect or refuse to make any return or payment as herein required, an additional 10% of the amount of the tax shall be added by the Treasurer and collected.

**§ 152-12. Disposition of receipts.**

All taxes, interest and penalties received, collected or recovered under the provisions of this article shall be paid into the treasury of the Township for the use and benefit of the Township.

**§ 152-13. Limitations.**

Nothing contained in this article shall be construed to empower the Township to levy and collect the taxes hereby imposed on any person or any business or any portion of any business not within the taxing power of the Township under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.

**§ 152-14. Severability.**

The provisions of this article are severable, and if any of its provisions or exemptions shall be held to be illegal, invalid or unconstitutional, or invalid or unconstitutional as to any part of the period designated herein as the license year, the decisions of any court shall not affect or impair any of the remaining provisions of this article, or affect or impair its application as to any other part of the said license year, and the requirements as to the license shall operate as of the effective date of this article and the computation of tax and payment thereof shall be applied and adjusted accordingly.

**§ 152-15. Violations and penalties.**

Any person, as defined in this article, or any officer, agent, servant or employee thereof, who shall fail, neglect or refuse to comply with any of the terms or provisions of this article, shall, upon conviction thereof before a District Justice, be sentenced to pay a fine of not less than \$25 nor more than \$300 and costs of prosecution for each offense, to be collected as other fines and costs are by law collectible, and in default of payment of said fine and costs, the defendant may be sentenced and committed to the Township lockup for a period not exceeding five days or to the Montgomery County jail for a period not exceeding 30 days. The fine imposed by this section shall be in addition to any other penalty imposed by any other section of this article.

**§ 152-16. Statutory authority.**

[Added 3-11-1976 by Ord. No. 1420] This article has been enacted under the authority of the Local Tax Enabling Act of the General Assembly of the Commonwealth of Pennsylvania, approved December 31, 1965, P.L. 1257, as amended, 53 P.S. § 6901 et seq.

**Article II. Business Privilege Tax**

[Adopted 12-29-1986 by Ord. No. 1622 *Editor's Note: This ordinance also provided for the repeal of former Art. II, Business Privilege Tax, adopted 11-13-1969 by Ord. No. 1267, as amended.* ]

**§ 152-17. Definitions.**

The following terms, words or phrases as used in this article shall have the meanings set forth below unless the context clearly indicates a different meaning:

**BUSINESS, TRADE, OCCUPATION AND PROFESSION**

Carrying on or exercising, whether for gain or profit or otherwise, within the Township any trade, business, including but not limited to financial business as herein defined, profession, vocation, service, construction, communications or commercial activity or rendering services from or attributable to a bona fide office or place of business within the Township. Such term shall include, without being limited to service or services rendered by any person as enumerated below:

- Accountants
- Advertising and public relations agencies
- Agents
- Apartment and rooming house operators
- Architects
- Barbershop operators
- Beauty shop operators
- Bricklaying
- Brokers
- Cable television operators
- Carpentry
- Chemists
- Chiropractors
- Cleaning, pressing and dyeing establishment operators

Commission merchants

Consultants

Contractors or subcontractors engaged in the alteration, building, construction, maintenance or repair of any kind of real or personal property

Dentists

Electrical

Employment agencies

Engineers

Equipment repair

Factors

Funeral directors

Health services

Heat and ventilating

Hotel operators

Insurance brokers and agents

Laundry operators

Lawyers

Lessor's leasing of real and tangible personal property for commercial or residential purposes, except only the leasing of a single personal residence within the Township for not more than a one-year term by a person domiciled within the Township

Management services of any kind pertaining to any real or personal property situate within the Township

Manufacturer's representatives

Motel operators

Nurses

Operators for profit of hospitals and operators for profit of nursing homes, extended-care facilities and homes for the elderly

Operators of places of amusement providing either passive or active recreation

Optometrists

Osteopaths

Parking lot and garage operators

Pharmacists

Physicians

Plastering, drywall or insulation

Plumbing and painting contractors engaged in the class of heavy building or other construction of any kind or in the alteration, maintenance or repair thereof

Podiatrists

Promoters

Psychologists

Public accountants



Purveyors of health services

Real estate brokers

Real estate developers

Repairers of electrical, electronic and automotive machinery or equipment or other machinery and equipment and other wares and merchandise

Shoe repair shop operators

Social workers

Surgeons

Tailors

Teachers

Therapists

Travel agents

Upholsterers

Vending machine operators

Ventilating

Veterinarians

Warehouse operators

#### **COLLECTOR**

The License Tax Officer of the Township of Abington or his duly authorized or deputized agents.

#### **FINANCIAL BUSINESS**

Services and transactions rendered by banks, bankers, trust companies, credit and investment banking companies, holding companies, dealers or brokers in bonds, credits, commercial paper, insurance, money, notes, securities and stocks, commodities, options and monetary metals.

#### **GROSS RECEIPTS**

**A.** All gross receipts of cash, credits or property of any kind or nature received in cash or credit transactions, attributable to the Township without regard to whether such receipts are derived from inside or outside the Township and regardless of taxpayer's method of accounting, for services rendered by any business, trade, occupation or profession, whether for gain or profit or otherwise, without deductions for the cost of property sold, materials used, labor, services or other cost, interest, discount paid or any other expenses, except as hereinafter excluded.

**B.** The term "gross receipts" shall not include:

(1) In the case of a financial business, the cost of securities and other property sold, exchanged, paid at maturity or redeemed or money received in payment of advances, credits and loans, not to exceed the principal amount of such advances, credits and loans, and deposits.

(2) In the case of a broker, any portion of the fees or commissions with respect to any transactions paid by him to another broker, underwriter or insurer on account of a purchase or sale of a contract for goods or commodities or an insurance contract initiated by or exercised or cleared in conjunction with such other broker.

(3) In the case of a real estate developer or contractor, the amounts paid to contractors or subcontractors who have registered to do business in the Township and to the extent such payees make timely payments of the tax on such gross receipts.

(4) Sales tax due to the Commonwealth of Pennsylvania.

#### **PERSON**

Any individual, partnership, limited partnership, joint venture, association, syndication, corporation or any other entity or taxpayer of any kind engaged in a business, trade, occupation or profession within the limits of the Township.

#### **SERVICE**

Any act or instance of helping or benefiting another for consideration.

#### **TAX YEAR**



The twelve-month period beginning the first day of January or, in the case of a person commencing business any day after the first day of January, the first day in the "tax year" in which a person commences a business, trade, occupation or profession in the Township, and ending the 31st day of December immediately following in such "tax year."

#### **TEMPORARY, SEASONAL OR ITINERANT BUSINESS**

Any business, trade, occupation or profession that is conducted or carried on within the limits of the Township for less than 30 consecutive business days during the tax year.

#### **TOWNSHIP**

The Township of Abington, a first class Township.

#### **TREASURER**

The Treasurer of the Township of Abington.

#### **§ 152-18. Registration.**

Every person desiring to engage in a business, trade, occupation or profession within the limits of the Township on or after the first day of January of the tax year or prior to commencing business in such tax year shall make application for registration for each place of business or office in the Township, but if such person has no place of business or office within the Township, such person shall file one registration with the Collector before transacting any business within the Township. Such registration shall be made on a form prescribed by the Treasurer and filed with the Collector, upon payment of a fee of \$10. Each application for registration shall be signed by the applicant, if a natural person; and, in the case of an association or a partnership, by a member or partner thereof; and, in the case of a corporation, by an officer thereof. Such certificate of registration shall not be assignable. In the case of loss, defacement or destruction of any certificate, the person to whom the certificate was issued shall apply to the Collector for a new certificate, for which a fee of \$0.50 shall be charged. Such registration fee shall be payable without regard to liability for payment of the tax imposed by this article.

#### **§ 152-19. Exemptions.**

- A. All persons required to pay a business privilege tax under the provisions of this article shall be exempted from paying such tax to the extent that gross receipts are derived from the sale of goods, wares and merchandise subject to the Mercantile License Tax Ordinance No. 1266, *Editor's Note: See Art. I, Mercantile License Tax*, as amended from time to time. The Treasurer shall have the authority to promulgate opinions, rulings and regulations or seek the opinion of the Township's Solicitor in determining which tax is to apply and the portion of the transaction which is to be subject to such taxes.
- B. Agencies of the government of the United States or of the Commonwealth of Pennsylvania, or political subdivisions thereof, or nonprofit corporations or trusts or associations organized solely and exclusively for religious, educational or charitable purposes and not conducting any regular or established business competing commercially with any person subject to the tax imposed by this article, provided that such exempt or nonprofit corporation or entity is also exempt from income tax under the Internal Revenue Code of 1954, as amended, or comparable provisions thereof, shall be exempt from tax under this article.
- C. The first \$2,500 of gross receipts for each tax year commencing after December 31, 1986, shall be exempt from tax.

#### **§ 152-20. Imposition of tax; interest.**

- A. There is imposed on every person exercising the privilege of carrying on a business, trade, occupation or profession from or within the limits of the Township an annual business privilege tax on gross receipts for each tax year beginning January 1, 1987, and each year thereafter at the rate of four mills on such person's gross receipts for such year, payable on or before the 15th day of April in the year immediately following.

[Amended 3-12-1987 by Ord. No. 1625]

- B. All taxes and estimated taxes due and payable under this article shall bear interest at the rate of 10% per year or daily fractional part of a year from the day they are due and payable until paid.

[Amended 12-14-2006 by Ord. No. 1942 *Editor's Note: This ordinance also provided an effective date of 1-1-2007.* ]

- C. (Reserved). *Editor's Note: Former Subsection C, Penalty, was repealed 3-12-1987 by Ord. No. 1625.*

#### **§ 152-21. Estimated tax.**

- A. In addition to the annual tax provided in this article, every person shall pay an estimated business privilege tax at the rate of four mills of the annual estimated gross receipts for the current tax year in which engaged in a business, trade, occupation or profession within the limits of the Township, which estimated tax shall be computed as hereinafter provided.
- B. The following subsections provide for computation of the annual tax on estimated gross receipts, as the case may be:
  - (1) Every person subject to the payment of the estimated tax hereby imposed who has commenced business at least a full year prior to January 1 of the tax year shall compute estimated gross receipts upon such person's actual gross receipts during the 12 months preceding such January 1.

- (2) Every person subject to the payment of the estimated tax hereby imposed who has commenced business less than one full year prior to such January 1 shall compute estimated gross receipts by multiplying by 12 the monthly average of such person's actual gross receipts during the months while engaged in business prior to such January 1.
  - (3) Every person subject to the payment of the estimated tax hereby imposed who commences business subsequent to such January 1 shall compute gross receipts for the tax year upon such person's gross receipts for the first complete month of business multiplied by the number of months remaining in the tax year.
  - (4) Every person subject to the payment of the estimated tax hereby imposed who engages in business which is temporary, seasonal or itinerant by its nature shall compute estimated gross receipts upon such person's actual gross receipts during the tax year.
- C. Every person subject to the estimated tax hereby imposed shall make a return and pay the estimated tax to the Treasurer based on the estimated gross receipts of the taxpayer on or before April 15 of the current year, in the case of the taxpayer described in preceding Subsection [B\(1\)](#) and [\(2\)](#), and within 60 days of the current year after commencing to engage in business, trade, occupation or profession in the case of taxpayer described in preceding Subsection [B\(3\)](#) and [\(4\)](#).

[Amended 3-12-1987 by Ord. No. 1625]

#### § 152-22. Returns.

- A. Every return and estimated return as required by this article shall be made upon a single combined form furnished by the Treasurer with appropriate instructions to facilitate computation of the tax and copies of federal income tax returns to facilitate collection of this tax if required by the Treasurer. Every person making such returns shall certify to the correctness thereof by signing such return under penalties of perjury.
- B. Every person subject to the tax imposed by this article who has commenced business at least one full year prior to the beginning of the tax year shall, on or before the 15th day of the April following, file with the Treasurer a return setting forth such person's name, business and business address and such other information as may be necessary to compute the annual gross receipts of such person during the preceding year and the amount of tax estimated to be due.
- C. If any person required to make a return under the provisions of this article, on behalf of any employer, shall neglect or refuse to make any return as herein required, such person shall be personally liable for a penalty in an amount equal to 10% of the tax due. Such failure to file a return as required hereunder shall be a summary offense, and, upon conviction thereof, the person responsible for filing such returns on behalf of a taxpayer shall be liable for such penalty in the same manner as a taxpayer is liable therefor.

[Added 3-12-1987 by Ord. No. 1625]

- D. Every person subject to the payment of the tax imposed by this article who engages in a business which is temporary, seasonal or itinerant by its nature shall, within seven days from the date of winding up of such business, file with the Treasurer a return setting forth such person's name, business and business address and such information as may be necessary in arriving at the actual gross receipts of such person during such period and the amount of the tax due.
- E. The Collector is authorized to grant extensions of time not to exceed 120 days pursuant to written requests received on or before the due date of such returns.

#### § 152-23. Payment of tax.

- A. At the time required for the filing of any tax return or estimated tax return hereunder, the person required to make the same shall pay the tax and/or estimated tax shown to be due on such return, without regard to any extension of time granted by the Treasurer for the filing of returns.
- B. At the time of making the final return, if the full amount of the tax due by the taxpayer for the tax year has not been paid, the taxpayer shall pay the remaining balance of the tax, which shall be the difference between the amount of the tax paid at the time of making the estimated return on the estimated gross receipts and the amount of tax shown to be finally due on the actual gross receipts for the tax year.
- C. The Treasurer is not authorized to grant extensions of time in which to make payment of tax or estimated tax due as provided herein or to waive or abate the interest due thereon.

#### § 152-24. Powers and duties of Treasurer; assessment proceedings; violations and penalties.

- A. It shall be the duty of the Treasurer to collect and receive the taxes, interest, penalties and costs imposed hereunder. It shall also be the duty of the Treasurer to keep an appropriate assessment record for each tax year showing the name and address of taxpayer, the amount of the tax due, the amount received and the date of payment(s).
- B. If no return is filed or if the Treasurer is not satisfied with the return and payment of tax required under the provision of this article, the Treasurer is hereby authorized and empowered to prepare and send, by certified or registered mail, a notice of proposed deficiency to the taxpayer's last known address, based upon the facts contained in the return or upon such information and belief as is available to the Treasurer. For this purpose, the Treasurer or the deputy Treasurer or authorized agent of the Treasurer is authorized to request, examine, and obtain from any person legible copies of the books, papers, records and federal and state

income tax returns of such person reasonably necessary to verify the accuracy of any return required to be made under the provisions hereof. Notwithstanding any other provision of this article, any person who shall refuse to allow such examination or to provide said legible copies shall be guilty of a summary offense, and upon conviction before a district justice, shall be sentenced to pay a fine of not less than \$100 nor more than \$600, together with the court costs, for each offense. Each day that a person refuses to allow such inspection shall constitute a separate and distinct offense. The taxpayer shall have 30 days from the date of such notice of proposed deficiency in which to file a protest thereto.

**[Amended 6-13-2002 by Ord. No. 1879]**

- C. Upon receipt of the taxpayer's protest or if any person shall neglect, fail or refuse to file a protest to the Collector's notice of proposed deficiency, then at any time following the expiration of 30 days subsequent to the date of notice of proposed deficiency, the Treasurer may prepare such returns and assess and levy the tax estimated to be due, plus interest and penalty due as provided herein.
- D. If any person fails to sign any return prepared by the Treasurer or required by law at the time prescribed therefor or makes, willfully or otherwise, a false, incorrect or fraudulent return, the Treasurer shall enter the amount of tax, interest and penalty due on the assessment roll and may thereafter collect such sums as provided by law.
- E. Any returns so submitted and subscribed as provided herein shall be prima facie good and sufficient for all legal purposes, and the taxpayer shall have the burden of proof in any legal proceeding to rebut, by clear and convincing evidence, the Treasurer's assessment.
- F. Any information contained on the returns of a taxpayer and any information obtained as a result of the examination of the books and records of the taxpayer shall be confidential, except for official purposes and except for purposes of pursuing the judicial remedies available to the Treasurer.
- G. The Treasurer may enter into such agreements, compacts or covenants with authorities of other political subdivisions of the Commonwealth of Pennsylvania for the purpose of achieving uniformity of tax insofar as practicable and with the Secretary of the Treasury of the United States for access to United States tax returns for the purpose of collecting the tax hereby imposed.

**§ 152-25. Collection by civil action.**

- A. In addition to all other remedies provided by law, the Treasurer shall have the power to collect unpaid taxes due under this article from any persons owing such taxes by commencing a civil action after the assessment procedure provided in § [152-24](#).
- B. To each judgment obtained for such taxes, interest and penalty as herein provided, there shall be added a civil fine of 10% of the tax, together with costs of the suit and reasonable attorney's fees incurred by the Township, as provided in the Local Tax Collection Act, Act of May 25, 1945, P.L. 1050, § 21, 72 P.S. § 5511.21 et seq.
- C. Any person, as defined in this article, or any officer, agent, servant or employee thereof who shall fail, neglect or refuse to comply with any of the terms or provisions of this article shall, upon a finding thereof, before a District Magistrate, be required to pay a civil fine of not less than \$25 nor more than \$300 and costs of suit for each offense, to be collected as other fines and costs are by law collectible.
- D. All taxes, interest, penalties and fines, costs of suit and reasonable attorney's fees received, collected or recovered by the Treasurer under the provisions hereof shall be paid into the treasury of the Township.

**§ 152-26. Responsibilities of taxpayer.**

- A. Any person claiming any exemption from the provisions of this article or denying liability for any tax imposed hereunder shall have the burden of proof.
- B. Every person subject to or considered by the Treasurer to be subject to the tax imposed by this article shall make his books, papers, records and federal income tax returns or copies thereof available to the Treasurer at any reasonable time and place requested in writing by the Treasurer or his deputy or authorized agent in order to enable such Treasurer or his deputy or authorized agent to make examination thereof as may be necessary to verify the accuracy of any return or payment of the tax required by this article. However, written request or demand for any records of a taxpayer shall not be deemed a condition precedent for commencement of any judicial proceeding by the Treasurer against a taxpayer.

**§ 152-27. Construal of provisions; promulgation of rules and regulations.**

- A. Nothing contained in this article shall be construed to empower the Township to assess, levy and collect the taxes hereby imposed on any person or any business or any portion of any business not within the taxing power of the Township under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.
- B. The Treasurer is hereby authorized to make rules and regulations consistent with the provisions of this article relating to the interpretation or application of any section thereof or with respect to any matter affecting the administration and enforcement of this article, including provision for the examination, correction of returns and the adjustment or refund of any overpayment of tax within the time provided by law.

**§ 152-28. Refunds.**

If the taxpayer makes an overpayment of tax under this article and submits a claim for refund in writing to the Treasurer on or before the expiration of two years following the due date for the return specified herein with regard to extensions, the Treasurer shall refund to the taxpayer the amount of such overpayment, which shall be the difference between the amount of tax paid for the year in question and the amount of the tax finally shown to be due. The Treasurer shall have the power to credit such overpayment to any deficiencies of tax, interest, penalties or civil fine due for any other years, under this article, or any other taxes owed to the Township by the taxpayer.

**§ 152-29. Statutory authorization.**

This article has been enacted under the authority of the Local Tax Enabling Act, 53 P.S. § 6901 et seq.

**§ 152-30. Severability; effect on prior actions.**

- A. The provisions of this article are severable, and, if any section, sentence, clause, part or provision thereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this article. It is hereby declared to be the intent of the Board that this article would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included therein.
- B. Nothing in this Article [II](#) or in Chapter [152](#) of the Code of the Township of Abington, as hereby amended, shall be construed to affect any suit or proceeding pending in any court, or any claim or rights acquired or liability incurred, or any cause or causes of action existing under said Chapter [152](#) of the Code of the Township of Abington in effect prior to this amendment, and all provisions of the business privilege tax for years prior to January 1, 1987, shall remain in full force and effect.

[Amended 3-12-1987 by Ord. No. 1625]

**§ 152-31. Effective date.**

This new Article [II](#) shall take effect and be in force for all tax years commencing after December 31, 1986.

**Article III. (Reserved)**

*Editor's Note: Former Art. III, Amusement Tax, adopted 1-2-1968 by Ord. No. 1215, was repealed 4-9-1987 by Ord. No. 1628.*

**§ 152-32. (Reserved)**

**§ 152-33. (Reserved)**

**§ 152-34. (Reserved)**

**§ 152-35. (Reserved)**

**§ 152-36. (Reserved)**

**§ 152-37. (Reserved)**

**§ 152-38. (Reserved)**

**§ 152-39. (Reserved)**

**§ 152-40. (Reserved)**

**§ 152-41. (Reserved)**

**§ 152-42. (Reserved)**

**§ 152-43. (Reserved)**

**§ 152-44. (Reserved)**

**§ 152-45. (Reserved)**

**§ 152-46. (Reserved)**

**§ 152-47. (Reserved)**

## Article IV. Realty Transfer Tax

[Adopted 12-11-1986 by Ord. No. 1619 *Editor's Note: This ordinance also provided for the repeal of former Art. IV, Realty Transfer Tax, adopted 1-2-1968 by Ord. No. 1216, as amended. This ordinance is enacted pursuant to the statutory authorization of the Local Tax Enabling Act, 53 P.S. § 6901 et seq. ]*

### § 152-48. Adoption of Local Realty Transfer Tax Act by reference to state transfer tax.

[Amended 3-12-1987 by Ord. No. 1624] There is hereby adopted by the Township the Abington Township local realty transfer tax by incorporating by reference the provisions constituting Article XI-C, Realty Transfer Tax, Act 77 of July 2, 1986, 72 P.S. § 8801-C (hereinafter the "State Act"), as enacted by the General Assembly of the Commonwealth of Pennsylvania, authorizing a local tax on transfers of real property or interests therein within the limits of the Township of Abington, to the extent, at the rate and in the same manner that such transfers are subject to state transfer tax, save only the modifications to such State Act as hereinafter provided.

### § 152-49. Definitions.

[Amended 3-12-1987 by Ord. No. 1624] The terms employed in the State Act set forth in the lower left-hand column shall be deemed to have the meanings for purposes of the Abington Township local realty transfer tax indicated in the corresponding right-hand column:

| State Act                    | Abington Township   |
|------------------------------|---|
| Commonwealth of Pennsylvania | The Township of Abington  |
| Department of Revenue        | Treasurer of Abington Township  |
| Statement of value           | Certificate of value in the form to be prescribed by the Treasurer of Abington Township |
| State tax                    | Local transfer tax  |
| Act 77 of 1986               | The Abington Township local realty transfer tax   |

### § 152-50. Imposition of tax; interest.

- A. 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 local transfer tax at the rate of 1% of the value of the real estate situate within the political limits of the Township, represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company as such term is defined by the State Act.
- B. The burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, 53 P.S. § 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such transfer tax, then the tax levied by the Township of Abington under the authority of Article IV shall, during the time such duplication of the tax exists, be 1/2 of the rate herein provided, and such 1/2 rate shall become effective without any action on the part of the Board of Commissioners; provided, however, that the Township of Abington and any other political subdivision which imposes such tax on such transfer may agree that, instead of limiting their respective rates to 1/2 of the rate herein provided, each will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.
- C. If for any reason the tax is not paid when due, interest at the rate allowed by law at the time the tax is due shall be added and paid to the Recorder of Deeds, for remittance to the Township at the times prescribed by law.

### § 152-51. Modifications in Realty Transfer Tax Act.

Solely for purposes of the Abington Township local realty transfer tax, the State Act is deemed modified as follows:

- A. In lieu of purchasing documentary stamps to evidence payment of the Abington Township local realty transfer tax, any person or party responsible for paying such local transfer tax shall execute and deliver a certification of value with respect to the realty transferred on forms prescribed by the Treasurer of the Township, in duplicate, to the Recorder of Deeds for Montgomery County, and such person or party shall pay the tax due on the value of such transfer to said Recorder of Deeds as collection agent for the Township as provided in 16 P.S. § 11011-6(c).
- B. The Treasurer of the Township of Abington is hereby charged with enforcement of the provisions of this article consistent with the provisions of this article, the State Act and other applicable provisions of law and shall prescribe, adopt and promulgate such rules and regulations, with the approval of the Secretary of the Township, as is necessary to administer the provisions of the Abington Township local realty transfer tax.
- C. All civil penalties imposed and interest accrued with respect to the tax due hereunder to the Township shall, in addition to the tax, be paid to the Recorder of Deeds for remittance to the Township in the same manner as the tax is required by law to be remitted to the Township.

- D. Whenever necessary to reasonably effectuate and carry out the intent of the Abington Township local realty transfer tax, the terms of the State Act shall be deemed modified and shall be construed and interpreted and in such a manner as if such State Act had been enacted by the Township of Abington.

**§ 152-52. Title.**

This article shall be known and may be cited as the "Abington Township Local Realty Transfer Tax."

**§ 152-53. When effective.**

The provisions of this article shall take effect and be in full force and effect immediately after approval by the Board of Commissioners as required by law.

**§ 152-54. Severability.**

The provisions of this article are severable, and, if any of the provisions of this article are held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, the decisions shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the intent of the Board of Commissioners that this article would have been adopted if such illegal, invalid or unconstitutional provision had not been included herein.

**§ 152-54.1. Interest, redeterminations and refunds.**

[Added 3-12-1987 by Ord. No. 1624]

- A. If, for any reason, the tax is not paid when due, interest at the rate of 11/2% per month or fractional part of a month from the day such tax becomes due and payable shall be added and collected from the person liable therefor.
- B. The Treasurer of Abington Township shall have five years from the date that a certificate of value is filed with the Recorder of Deeds in which to redetermine the full and complete value of the interest subject to tax hereunder and to issue a notice to the person or persons liable therefor that such additional tax and interest may be due.
- C. Any taxpayer who has filed a certificate of value may, within three years after the filing thereof with the Recorder of Deeds, file with the Treasurer of Abington Township a claim for refund of overpayment of the tax due, and the Treasurer is authorized to pay such claims, if justified, with interest at the rate of 11/2% per month or portion of a month from the date such tax was overpaid. The Treasurer shall have the power to credit any overpayment and interest thereon to any deficiencies owed by the taxpayer with reference to any other taxes owed to the Township for any other years or for interest, penalties or civil fines in respect to such deficiencies.

**§ 152-54.2. Real estate tax certification fee.**

[Added 11-28-2005 by Ord. No. 1934] There shall be a fee for preparing and providing by mail or any other means a real estate tax certification fee for any single tax parcel within the Township of Abington, which fee shall be assessed and collected by the Township Treasurer and retained by the Township Treasurer for providing such services. The amount of the fee shall be set from time to time by resolution of the Board of Commissioners.

**Article V. Local Services Tax**

[Adopted 11-29-2007 by Ord. No. 1954 *Editor's Note: This ordinance also repealed former Art. V, Occupational Privilege Tax, adopted 12-13-1979 by Ord. No. 1498, as of 1-1-2008.* ]

**§ 152-55. 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 or language clearly indicates or requires a different meaning:

**COLLECTOR**

The person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.

**DCED**

The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

**EARNED INCOME**

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

**EMPLOYER**

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

**HE, HIS or HIM**



Indicates the singular and plural in number, as well as male, female and neuter genders.

#### **INDIVIDUAL**

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

#### **NET PROFITS**

The net income from the operation of a business, profession, or other activity, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.

#### **OCCUPATION**

Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the political subdivision for which compensation is charged or received, whether by means of salary, wages, commission of fees for services rendered.

#### **POLITICAL SUBDIVISION**

The area within the corporate limits of the Township of Abington.

#### **TAX**

The local services tax at the rate fixed in § [152-56](#) of this article.

#### **TAX YEAR**

The period from January 1 until December 31 in any year; a calendar year.

#### **§ 152-56. Levy of tax.**

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008, upon the privilege of engaging in an occupation with a primary place of employment within the Township of Abington during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$52, assessed on a pro rata basis, in accordance with the provisions of this article. This tax may be used solely for the following purposes as the same may be allocated by the Township of Abington from time to time: 1) emergency services, which shall include emergency medical services, police services and/or fire services; 2) road construction and/or maintenance; 3) reduction of property taxes; or 4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S.A. Chapter [85](#), Subchapter F (relating to the homestead property exclusion). The political subdivision shall use no less than 25% of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than \$52.

#### **§ 152-57. Exemption and refunds.**

- A. Exemption.** Any person whose total earned income and net profits from all sources within the political subdivision is less than \$12,000 for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:
- (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 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. For the purposes of this subsection, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.
- B. Procedure to claim exemption.**
- (1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than \$12,000 in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by Subsection [B\(2\)](#), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.
  - (2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption that calendar year, or upon an employer's payment to the person of earned income within the municipality in an



amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person under Subsection [B\(3\)](#).

- (3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under Subsection [B\(2\)](#), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under Subsection [B\(2\)](#), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per-payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this article.
- (4) Except as provided in Subsection [B\(2\)](#), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

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

#### **§ 152-58. Duty of employers to collect.**

- A. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.
- B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Subsection [D](#) of this section. For purposes of this subsection, "combined rate" shall mean the aggregate annual rate of the tax levied by the school district and the municipality.
- C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
- D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employer's statement shall be provided on the form approved by DCED.
- E. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Subsection [B](#) of [§ 152-57](#) of this article and this section and remits the amount so withheld in accordance with this article.
- G. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of a calendar year.

#### **§ 152-59. Returns.**

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

**§ 152-60. Dates for determining tax liability and payment.**

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the 30th day following the end of each calendar quarter of each such tax year.

**§ 152-61. Self-employed individuals.**

Each self-employed individual who performs services of any type or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this article and pay the pro rata portion of the tax due to the Collector on or before the 30th day following the end of each quarter.

**§ 152-62. Individuals engaged in more than one occupation or employed in more than one political subdivision.**

- A. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:
- (1) First, the political subdivision in which a person maintains his or her principal office or is principally employed.
  - (2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision.
  - (3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.
- B. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

**§ 152-63. Nonresidents subject to tax.**

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

**§ 152-64. Administration of tax.**

- A. The Collector shall be appointed by resolution of the political subdivision. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received.
- B. The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered, subject to municipal approval, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provision for the examination of 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 consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998 *Editor's Note: See 53 Pa.C.S.A. § 8421 et seq.* (municipalities may detail their appeal processes).
- C. The Collector is hereby authorized to examine the books and payroll records of any employer to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

**§ 152-65. Suits for collection.**

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of such tax due or unpaid under this article, together with interest and penalty.
- B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax, and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

**§ 152-65.1. Violations and penalties.**

Whoever makes any false or untrue statement on any return required by this article or whoever refuses inspection of the books, records or accounts in his or her custody and control setting the number of employees subject to this tax who are in his or her employment or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution and, in default of payment of such fine and costs, to imprisonment

for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

#### § 152-65.2. Interpretation.

- A. Nothing contained in this article shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
- B. If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

### Article VI. Exemption for Certain Deteriorating Property

[Adopted 10-10-1996 by Ord. No. 1768]

#### § 152-66. Definitions.

As used in this article, the following words and phrases shall have the meanings set forth below:

##### DETERIORATING PROPERTY

Any commercial, industrial, retail or other nonresidential business property owned by an individual, association or corporation and located in areas as hereinafter provided, or any such property which has been the subject of an order by Abington Township requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations within the Township of Abington.

##### IMPROVEMENT

Repair, construction or reconstruction, including alterations or additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement. For purposes of this article, repair or construction of buildings containing a majority of apartment units shall not constitute an improvement eligible for a real estate tax exemption under provisions of this article.

##### LOCAL TAXING AUTHORITY

The Abington School District and the Township of Abington.

#### § 152-67. Eligible areas.

By this article, the Abington Township Board of Commissioners designates all commercial, industrial, retail or local business properties located within the following areas as deteriorating in accordance with the plan attached as Exhibit A, *Editor's Note: Exhibit A is on file in the Township offices.* to be eligible to participate in the provisions of this article:

- A. The Keswick Planning District.
- B. The Mc Kinley Planning District.
- C. The North Hills Planning District.
- D. The Old York Road Planning District.
- E. The Roslyn Planning District.
- F. The Town Center Planning District.

#### § 152-68. Exemption amounts and criteria.

- A. The amount to be exempted shall be limited to additional assessment valuation attributable to the actual costs of improvements to deteriorated property.
- B. The exemption shall be limited to the improvement for which an exemption has been requested in the manner set forth below and for which a separate assessment has been made by the Board of Assessment.

#### § 152-69. Exemption schedule.

The exemption period shall run for five years and shall commence with the issuance of an occupancy permit or final inspection for the applicable improvement, according to the following schedule:

- A. First year: 100%.

- B. Second year: 100%.
- C. Third year: 75%.
- D. Fourth year: 50%.
- E. Fifth year: 25%.
- F. The exemption from taxes granted under this article shall be upon the property and shall not terminate upon the sale or exchange of the property.

**§ 152-70. Conditions for exemption.**

A property participating in this tax exemption provision shall be subject to the following conditions of exemption:

- A. The tax valuation of the property established by the Board of Assessment prior to this provision shall remain free from assessment appeal for a two-year period preceding the exemption period, during the exemption period and for three years following the abatement period.
- B. The tax exemption status does not become applicable until a building permit shall be issued for the qualifying improvement.
- C. Building permits issued to qualifying property prior to the adoption of this article shall not be applicable to this provision.

**§ 152-71. Notice to taxpayers; application for exemption.**

- A. There shall be attached to the application forms for building, zoning and occupancy permits the following:

**Notice to Taxpayers**

Under the provisions of Ordinance No. 1768, you may be entitled to a property tax exemption on your contemplated alteration or new construction. An application for exemption may be secured from the Office of Economic Development and must be filed with same at the time a building or alteration permit is secured.

- B. At the time a building or alteration permit is secured for the construction of an improvement for which an exemption is requested, the taxpayer shall apply to the Office of Economic Development for the exemption provided for in this article. Requests for the exemption must be made in writing on application forms as prescribed by the Township of Abington, setting forth the following information:
  - (1) The date the building permit or alteration permit was issued for said improvements.
  - (2) The type of improvement.
  - (3) The summary of the plan of the improvement.
  - (4) The cost of the improvement.
  - (5) Any or all such additional information required.

**§ 152-72. Procedure for obtaining exemption.**

A copy of the request for exemption shall be forwarded by the Office of Economic Development to the Montgomery County Board of Assessment. Upon completion of the improvement or new construction, the taxpayer shall notify the Township Economic Development Office and the Montgomery County Board of Assessment so that the Board of Assessment can establish a separate assessment for the qualifying improvements for the purpose of calculating the amount of assessment eligible for the tax exemption in accordance with the limits established in this article. The County Board of Assessment will then set the amount of assessment eligible for exemption, record the same on its assessment rolls and notify the taxpayer of the assessment eligible for exemption. Appeals from the assessment and the amount eligible for the exemption may be taken by the taxpayer or the Township of Abington as provided by law.

**§ 152-73. Termination; continuance.**

- A. Unless otherwise repealed by the Board of Commissioners of the Township of Abington, this article shall terminate two years after the adoption date.
- B. Any property tax exemptions granted under the provisions of this article shall be permitted to continue according to the exemption schedule, even if this article expires or is repealed.
- C. This article may be renewed and/or expanded after the termination date, by joint resolutions of the Board of Directors of the Abington School District and the Board of Commissioners of Abington Township, describing the renewal and/or expansion terms.

## **Article VII. Earned Income and Net Profits Tax**

[Adopted 12-18-2002 by Ord. No. 1887]

### **§ 152-74. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

#### **ASSOCIATION**

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

#### **BOARD OF COMMISSIONERS**

The Board of Commissioners of the Township of Abington.

#### **BUSINESS**

An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit, or ordinarily conducted for profit, whether by persons, partnerships, associations 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 voluntary 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 them to adopt some other permanent home. In the case of businesses, or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

#### **EARNED INCOME**

Salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or in property; not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness, disability or other than regular wages received during a period of sickness, disability or retirement, or payments arising under workmen's compensation acts, occupational disease acts and similar legislation, or payments commonly recognized as old-age benefits, retirement pay or pension paid to persons retired from service after reaching a specific age or after a stated period of employment compensation payments by any governmental agency, or payments to reimburse expenses, or payments made by employers, or labor unions for wage and salary supplemental programs, including, but not limited to, programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, Social Security and retirements.

#### **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.

#### **INCOME TAX OFFICER OR OFFICERS**

Person, public employee or private agency designated by the Board of Commissioners to collect and administer the tax on earned income and net profits.

#### **LESSOR**

Any individual or individuals, corporation, partnership or other entity which owns, leases or otherwise possesses or controls any real property, condominium unit or rental unit, including residential, commercial, office, institutional, or industrial real property, condominium unit or rental unit, and in turn leases or subleases such real property to any other individual or individuals, corporation, partnership, association, or other entity. For the purposes of this article, lessor shall include any agent, manager, condominium association or other entity which acts on behalf of the owner of the real property, condominium or rental unit.

#### **NET PROFITS**

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

#### **NONRESIDENT**

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

#### **PERSON OR INDIVIDUAL**

A natural person.

#### **PRECEDING YEAR**

The calendar year before the current year.

#### **RESIDENT**

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

#### **SUCCEEDING YEAR**

The calendar year following the current year.

#### **TAXPAYER**

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

#### **TOWNSHIP**

The Township of Abington, Montgomery County, Pennsylvania.

#### **§ 152-75. Imposition of tax.**

- A. A tax at the rate of 1% on each dollar is hereby imposed on all earned income and net profits, as defined herein, earned by residents of the Township of Abington and on all earned income and net profits earned by nonresidents of the Township of Abington for work done or services performed or rendered in said Township. This tax shall become effective April 1, 2003, and shall remain in effect thereafter on a calendar-year basis without annual reenactment unless the rate of tax is subsequently changed.

[Amended 6-12-2003 by Ord. No. 1897]

- B. It is the intent of the Board of Commissioners that taxpayers subject to the provisions of this article shall be liable for the tax imposed by this article for the second, third and fourth quarters of 2003, and for all four quarters of every year thereafter.

#### **§ 152-76. Declaration and payment of tax.**

##### **A. Net profits.**

- (1) Every taxpayer making net profits shall, on or before April 15 of each year, make and file with the officer on a form prescribed by the officer a declaration of his estimated net profits during the period beginning January 1 and ending December 31 of the current year and pay to the officer in four equal quarterly installments the tax due thereon as follows: The first installment at the time of filing the declaration and the other installments on or before June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year.
- (2) On or before April 15 of the succeeding year, every taxpayer shall make and file a final return on a form prescribed by the officer showing the amount of net profits earned, the total amount of tax due, and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the officer the balance of the tax due, or shall make demand for refund or credit in case of overpayment. An incomplete or improperly completed tax return shall be considered as not having been filed. Each final return shall be substantiated and supported by such United States federal income tax return forms as required by the officer, which shall at least include a copy of the federal W-2 form in the case of taxable earned income, and Schedule C of the federal return as to taxable net profits.

- B. Earned income. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with 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. An incomplete or improperly completed tax return shall be considered as not having been filed. Each final return shall be substantiated and supported by such United States federal income tax return forms as required by the officer, which shall at least include a copy of the federal W-2 form in the case of taxable earned income, and Schedule C of the federal return as to taxable net profits.

- C. 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, a quarterly return on or before April 30 of the current year, July 31 of the current year, October 31 of the current year, and January 31 of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the three-month periods ending March 31 the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to the tax, together with such other information as the officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the officer the amount of tax shown as due thereon.

#### **§ 152-77. Collection at source.**

- A. 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 deduct at the time of payment thereof, the tax imposed by the Board of Commissioners of Abington Township on the earned income due to his employee or employees and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year, and January 31 of the succeeding year, file a return and pay to the officer the amount of taxes deducted during the preceding three 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. Such returns, 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 subdivision imposing the tax upon such employee and the political subdivision in which the employee resides, the total earned income of all such employees during such preceding three-month period, and the total tax deducted therefrom and paid with the return.

- B.** Any employer, who for two of the preceding four quarterly periods, has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the officer on or before the last day of the month succeeding the month for which the tax was withheld.
- C.** On or before February 28 of the succeeding year, every employer shall file with the 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 the officer for the period, beginning January 1 of the current year and ending December 31 of the current year.
  - (2)** A return showing withholding statement for each employee employed during all or part of the period beginning January 1 of the current year, and ending December 31 of the current year, setting forth the employee's name, address, 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 officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.
- D.** Every employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file the returns and withholding statements herein above required and pay the tax due.
- E.** Except as otherwise provided, 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 he was required to withhold to the extent that such taxes have not been recovered from the employee.
- F.** 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.
- G.** It shall be the duty of every lessor to file with the Township a list, certified to be true, correct and complete, of the names and addresses of all tenants, lessees, or sublessees of any real property, condominium unit or rental unit, on or before February 28, 2003, and thereafter on or before December 31, 2003, and each December 31 of each succeeding year or within 30 days of the date of any change of tenancy of such real property, condominium unit or rental unit.

#### **§ 152-78. Powers and duties of officer.**

- A.** It shall be the duty of the officer to collect and receive the taxes, fines and penalties imposed by this article. 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. Bond.**
- (1)** Each officer, before entering upon his official duties, shall give and acknowledge a bond to the Township of Abington. If the Board of Commissioners shall by resolution designate any bond previously given by the officer as adequate, such bond shall be sufficient to satisfy the requirements of this subsection.
  - (2)** Each such bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business within this commonwealth and duly licensed by the Insurance Commissioner of this commonwealth.
  - (3)** Each such 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 by him according to law, of all monies 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 by right of his office.
  - (4)** 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 subdivisions appointing the officer, and for the use of such other person or persons for whom money 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.
- 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 refund 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 rule or regulation of any kind shall be enforceable unless it has been approved by the Board of Commissioners of the Township of Abington. 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 investigation 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 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.

#### **§ 152-79. Suit for collection of tax.**

- A. The officer may sue in the name of the Township for recovery of taxes due and unpaid under this article.
- B. Any suit brought to recover the tax imposed by this article shall begin 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 the 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 begin within six years.
  - (4) Where any person has deducted taxes under the provision 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 Township from recovering delinquent taxes by any other means provided by law.
- C. The officer may sue for recovery of an erroneous refund, provided 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.

#### **§ 152-80. 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 0.5% of the amount of 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.

#### **§ 152-81. 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 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 before any justice of the peace, alderman or magistrate, or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense and costs, and, in default of payment of said fine and costs, to be imprisoned for a period not exceeding 30 days. Each violation shall constitute a separate offense, punishable by a like fine or imprisonment for each day of continued violation.
- B. Any person who divulges any information which is confidential under the provisions of this article shall, upon conviction thereof before any justice of the peace, alderman or magistrate, or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense and costs, and in default of payment of said fines and costs, to be imprisoned for a period not exceeding 30 days.
- C. The penalties imposed under this section shall be in addition to any other penalty imposed pursuant to any other section of this article.

D. The failure of any person to receive or produce forms required for making the declaration or return required by this article shall not excuse him from making such declaration or return.

**§ 152-82. Confidentiality of tax information.**

Any information gained by the Township as a result of any audit, return, report, investigation, hearing or verification shall be confidential tax information. Except for official purposes or as provided by law, the Township or its designee shall not:

- A. Divulge or make known in any manner any confidential information gained in any return, investigation, hearing or verification to any person;
- B. Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person; or
- C. Print, publish or make known in any manner any confidential tax information.

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