

EARNED INCOME TAX

REGULATIONS

of the

CAPITAL TAX COLLECTION BUREAU

Member - School Districts and Municipalities

EARNED INCOME TAX DIVISION

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# EARNED INCOME TAX REGULATIONS

of the

## CAPITAL TAX COLLECTION BUREAU

### PREFACE

The Earned Income Tax Regulations of the Capital Tax Collection Bureau were first promulgated by the Income Tax Officer of the City of Harrisburg and were approved by the City on February 1, 1966, pursuant to Section 13V of the Act of December 13, 1965, P.L. 1257, as amended (53 P.S. 6913). They are based on regulations promulgated by the Allentown Income Tax Officer. When the Harrisburg Area Tax Division, and, later, its successor, the Capital Area Tax Collection Bureau, began collecting earned income taxes for other political subdivisions, the Harrisburg regulations were approved by those subdivisions in the interest of conformity.

Implicit in the approval of the other subdivisions was the substitution of the name of the subdivision for Harrisburg and its ordinance or resolution for the Harrisburg ordinance. Where a school district approved the regulations it was implicit that the sections concerning taxation of non-residents did not apply. Also, certain approving subdivisions have elected not to have Section 219(C)(2)(b)(vi), authorizing the use of operating losses in a business to offset other compensation, apply in their jurisdictions.

Care has been taken in the new edition not to disturb the prior approvals. However, the words "Approving Subdivision" have been substituted for "Harrisburg" or "City of Harrisburg" and the limited application of the non-resident provisions has been indicated to make the implication of the previous edition explicit. Also, the limitation on the use of Section 219(c)(2)(b)(vi) has been noted. References to 1966 and 1967 and to obsolete forms have also been removed as now superfluous. Finally, since the Income Tax Officer has taken over the duties of Income Tax Receiver, pursuant to Section 501 reference to "the Income Tax Receiver" have been deleted or the words "Income Tax Officer" substituted.

JOSHUA J. VECCHIO  
Director  
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CITY OF HARRISBURG  
EARNED INCOME TAX REGULATIONS

ARTICLE I

GENERAL PROVISIONS

SECTION 101. DEFINITIONS

For the purpose of these regulations, the following terms shall have the meanings ascribed to them in this section, except when the context clearly indicates or requires a different meaning:

- A. "The Ordinance" means the Approving Subdivision Earned Income Tax Ordinance or Resolution.
- B. "Association" means a partnership, limited partnership or any other unincorporated group of two or more persons.
- C. "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit, or ordinarily conducted for profit, whether by an individual, partnership, association, or any other entity.
- D. "Corporation" means 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.
- E. "Earned" means the time when income is earned is when service is rendered. The time when net profits are earned is the same as that of income.
- F. "Employer" means an individual, partnership, association, corporation, governmental body or unit or agency, or any other entity employing one or more persons on a salary, wage, commission, or other compensation basis.
- G. "Nonresident" means an individual, partnership, association, or other entity domiciled outside the Approving Subdivision.
- H. "Current year" means the calendar year for which the tax is levied.
- I. "Domicile" means the place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory.

Domicile is the place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the cases of businesses, or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

- J. "Earned Income" means wages, salaries, commissions, bonuses, tips, fees, net profits, severance pay, reserve unit, National Guard and other military inactive duty pay, premature retirement or other payment plan distributions for reasons other than death or disability not rolled over into another federally qualified retirement plan to the extent they do not represent a return of an employee's previously taxed contribution. Cafeteria plan contributions are non-taxable to the extent they are not taxed for federal income tax purposes and they would be exempt from Pa. income taxation if paid by the employer. Employee contributions to 401(k), 403(b), 457 and other types of deferred payment programs remain taxable items. Incentive payments (e.g., income from employee stock options and phantom stock plans), reimbursement of non-deductible expenses, a fair salary commensurate with the service provided by an S-Corp shareholder to the corporation, fellowships (when compensation for services) remain taxable.

**TAXABLE RETIREMENT/SAVINGS PLAN DISTRIBUTIONS** - CTCB follows the PA Department of Revenue's Personal Income Tax Regulations regarding the taxability of distributions from employee deferred payment programs such as pensions (retirement plans), profit sharing, ESOP, SEP, 401(k), 403(b) and 457 plans. If a distribution of this type is taxable at the state level, a portion of it may be taxable at the local level. A distribution of such a plan can be made up of three components: 1) the employee's previously taxed contributions, 2) the employer's untaxed contributions, and 3) income generated by the plan's assets. The Commonwealth of Pennsylvania and CTCB tax item numbers 2 & 3 (employer contributions and income). However, if the plan is unfunded any distribution is an employer's contribution and it is entirely taxable. The taxpayer must provide a statement from the plan administrator or trustee of the account showing what portion, if any, of the distribution is attributable to the employer's contribution and income generated by the plan's assets. This is the portion that is taxable for earned income tax purposes and must be listed on Line 4 of your return.

**NON-TAXABLE ITEMS** - Interest, dividends, worker's compensation, subchapter "S" income (except a fair salary commensurate with the services provided by an S-Corp shareholder to the corporation), passive schedule income, cafeteria plan contributions to the extent they are not taxed for federal income tax purposes and they would be exempt from Pa.

income taxation if paid by the employer, social security benefits, pensions, annuities, and retirement pay received after retirement from employment and upon reaching a specific age or years of service or upon death or disability, IRA benefits other than premature distributions, disability benefits, third party sick pay, capital gains, death benefits, life insurance proceeds, gifts or bequests, public assistance, unemployment compensation, active military service pay or bonuses (does not include reserve unit and National Guard inactive duty pay which is taxable), income from trusts, rental income (unless the operation is a business), clergy housing allowance, and personal use of employer's owned or leased property.

- K. "Income Tax Officer" means the Director, Earned Income Tax Division, Capital Area Tax Collection Bureau.
- L. "Net Profits" means the net income from the operation of a business, profession, or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession, or other activity, but without deduction of taxes based on income.
- M. "Preceding year" means the calendar year before the current year.
- N. "Succeeding year" means the calendar year following the current year.
- O. "Person" means a natural person.
- P. "Resident" means an individual, partnership, association, or other entity domiciled in the Approving Subdivision.
- Q. "Taxpayer" means a person, when an individual, a member of a co-partnership, association, or any other entity, required by the Ordinance to (1) file a return on earnings or net profits or both, or (2) pay a tax thereon.
- R. "Employee" means any person who renders services to another for a financial consideration or its equivalent, under an express or implied contract, and who is under the control and direction of the latter, and shall include temporary, provisional, casual, or part-time employment.
- S. Hereinafter, when the word "Approving Subdivision" is used, it is to be construed as meaning a political subdivision approving these regulations.
- T. "Political Subdivision" means the duly constituted authorities of Cities of the 2nd Class, Cities of the 2nd Class A, Cities of the 3rd Class, boroughs, towns, townships, townships of the 1st Class, School Districts of the 2nd

Class, School Districts of the 3rd Class and School Districts of the 4th Class, as prescribed by laws of the Commonwealth of Pennsylvania.

## SECTION 102. EXCLUSIONS FROM EARNINGS

The following payments or benefits received by an individual shall not be subject to the tax:

A. "Old-Age Benefits, Retirement Pay and Pensions." Periodical payments, commonly recognized as old-age, retirement or pension payments, made to persons retired from service after reaching a specific age or after a stated period of employment.

B. "Sick or Disability Benefits." Periodical payments received by an individual under a sickness or disability insurance plan are not taxable. Where, however, an employee receives regular salary from his employer during a period of sickness or disability, by virtue of his contract of employment, such compensation shall be fully taxed.

C. "Benefits Arising Under Workmen's Compensation Acts, Occupational Disease Acts, and Similar Legislation." Compensation received by employees under the provisions of workmen's compensation acts, occupational disease acts, or similar legislation together with any amount received as damages by suit or agreement on account of any injury or disease, is not taxable.

D. "Public Assistance of or Unemployment Compensation Payments." Payments made under any public assistance or unemployment compensation legislation are not taxable.

E. "Active Military Service Pay." Compensation paid by the United States to any person for active service in the armed forces of the United States is not taxable.

F. "Bonuses Paid by United States, Pennsylvania, or Any Other State, for Active Military Service." Any Bonus or additional compensation paid to a person by the United States, by the Commonwealth of Pennsylvania, or by any other State, for active service in the armed forces of the United States, is not taxable.

G. "Death Benefits." Where an employer makes death benefit payments to the beneficiary of an employee or to his estate, whether payable in a lump sum or otherwise, such payments are not taxable.

H. "Proceeds of Life Insurance Policies." Proceeds of life insurance policies payable by reason of the death of an insured to his estate or to a beneficiary are not taxable.

I. "Gifts and Bequests." Cash or property received as a gift or under a will or under statutes of descent and distribution is not taxable.

J. "Interest Received." All forms of interest, e.g., on obligation of the United States or its possessions, the Commonwealth of Pennsylvania, or any political subdivision thereof, or on bank or postal savings accounts, mortgages, or loans, received by an individual, are not taxable. However, where a person is engaged in the business of lending money at interest, e.g., loan or finance companies or private bankers, the net profits of such business are taxable.

K. "Board and Lodging to Employees for Convenience of Employer." The value of meals and lodging furnished to domestics or other employees by the employer for the latter's convenience is not considered earned income and is not taxable.

L. "Income from Stocks, Trusts and Rentals of Dwellings Owned by Individuals not Licensed (or conducting a business) as Realtors by the Commonwealth of Pennsylvania." The income from these items is not taxable under present law in the State of Pennsylvania.

M. "Capital Gains and Losses." Capital gains and losses shall not be included in computing taxable net earnings. These include such capital gains and losses as arise from the sale, exchange, or other disposition of depreciable business property, and real property, used in the taxpayer's trade or business.

## ARTICLE II

### IMPOSITION AND RATE OF TAX

#### SECTION 201. EARNINGS OF EMPLOYEES

A tax for general revenue purposes of one (1%) percent is imposed by the Approving Subdivision on the following:

A. Salaries, wages, commissions and other compensation earned by residents of the Approving Subdivision from January 1 to December 31 of the current year inclusive, no matter where earned.

B. Salaries, wages, commissions and other compensation earned by nonresidents from January 1 to December 31 of the current year inclusive, for work done or for services performed or rendered in the Approving Subdivision as provided in Section 206 of these regulations.

#### SECTION 202. NET PROFITS OF BUSINESSES, PROFESSIONS AND OTHER ACTIVITIES.

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

A. Net profits earned from January 1 to December 31 of the current year inclusive, of businesses, professions and other activities conducted by residents of the Approving Subdivision. The tax applies no matter where such business, professions or other activities are conducted.

B. Net profits earned from January 1 to December 31 of the current year inclusive, or businesses, professions, and other activities conducted in the Approving Subdivision of Harrisburg by nonresidents, as set forth in Section 206A., B., and C. of these regulations.

C. Income received from rental or sale of real estate by individuals licensed as realtors by the Commonwealth of Pennsylvania, or from those conducting real estate business.

### SECTION 203. TAXABLE EARNINGS OF EMPLOYEES

The items of compensation listed below are taxable. They are subject to the tax whether an employee receives them directly or through an agent. Moreover, neither the kind or rate of payment nor the manner of employment exempts an employee from the tax.

A. Salaries.

B. Wages.

C. Commissions.

D. Bonuses.

E. Drawing Accounts. If amounts received as a drawing account exceed the salaries or commissions earned, the tax is payable on the amounts received. If the employee subsequently repays to the employer any amounts not in fact earned, the tax shall be adjusted accordingly.

F. Incentive payments.

G. Tips received.

H. Fees.

I. Benefits accruing from the employment, such as: annual leave, vacation, holiday, separation and privately financed unemployment benefits. Such payments are fully taxed to a resident employee and to a nonresident employee if his employment is entirely within Approving Subdivision. With respect to a nonresident employee working

partly within and partly outside of Approving Subdivision, the tax is pro-rated on the same basis as that used in computing the tax on wages and compensation received during a representative period prior to vacation, holiday, or separation from employment.

J. Taxes assumed by the employer.

K. Fellowships. The portion, if any, of payments to a graduate student in a college or university as a fellowship or scholarship grant which represents compensation for services required to be performed by him, is taxable.

L. Compensation received in the form of property shall be taxed at its fair market value at the time of receipt.

#### SECTION 204. RESIDENT EMPLOYEES

The entire earnings received by a resident employee for services rendered are subject to this tax. Neither the source of the earnings, nor the place or places where the services were rendered exempt an employee from the tax.

#### SECTION 205. WHO IS A RESIDENT?

For the purpose of this tax, a resident of the Approving Subdivision is a person who is domiciled in that political subdivision.

#### SECTION 206. NONRESIDENT EMPLOYEES (Applicable to Cities, Boroughs, Towns and Townships)

A nonresident of the Approving Subdivision is subject to a one (1%) percent tax on all of his earnings for work done or services performed or rendered in the Approving Subdivision.

A. If a nonresident of the Approving Subdivision is subject to an earned income tax in his political subdivision of residence, the Approving Subdivision will assume the burden of refunding to that political subdivision the tax which was collected by the Approving Subdivision from that nonresident, or that portion of the tax which is due his political subdivision.

B. Where the political subdivision in which the nonresident is domiciled imposes a tax of less than one (1%) percent on earned income, the earnings of an employee subject to the Approving Subdivision's Earned Income Tax are taxable at a rate which equals the difference between one (1%) percent and the rate of the tax imposed by the political subdivision of which the employee is a resident.

C. Where the political subdivision of which the employee is a resident imposes

a tax of one (1%) percent on earned income and the effective date of such tax is later than the effective date of the Ordinance of the Approving Subdivision, the earnings of such employee are taxable by the Approving Subdivision during the period in which he was not liable to the tax imposed by the political subdivision of which he is a resident.

SECTION 207. NONRESIDENTS EMPLOYED FULL TIME IN APPROVING SUBDIVISION  
(Applicable to Cities, Boroughs, Towns and Townships)

The entire earnings of a nonresident shall be fully taxed if he works or performs services exclusively within the Approving Subdivision.

SECTION 208. NONRESIDENTS EMPLOYED PART TIME WITHIN THE APPROVING SUBDIVISION  
(Applicable to Cities, Boroughs, Towns and Townships)

Where a nonresident receives compensation for work done or for services rendered or performed partly within and partly outside the Approving Subdivision, the tax shall apply to that portion of the compensation which is earned within the Subdivision in accordance with the rules of apportionment or allocation set forth below:

A. If the nonresident is paid on a straight salary or wage basis, the tax shall be based on that portion of his compensation which the total number of working days within the Approving Subdivision bears to the total number of working days both within and outside of the Approving Subdivision.

Illustration: Mr. X, a resident of New Jersey, was employed on a five-day-week as a radio repairman at a weekly salary of \$60.00. His job required the servicing of customers in Approving Subdivision and Millersburg, Pa. He worked within the Approving Subdivision approximately three (3) days each week. The tax on his weekly earnings is 36 cents, computed as follows:

$$\frac{3 \text{ days within the Approving Subdivision} \times \$60.00}{5 \text{ working days}} = \$36.00$$

times 1% = \$0.36

The claim for an apportionment of allocation, to be allowed by the Income Tax Officer, must be supported by a written statement, such as travel orders signed by the employer, setting forth the date or dates the employee was assigned within the Approved Subdivision.

B. If the nonresident is paid commissions, based on the volume of business transacted by him, the tax is computed on that portion of his entire commissions which the

volume of business transacted by the employee within the Approving Subdivision bears to the volume of business transacted by him both within and outside of the Approving Subdivision.

Illustration: Mr. F, a resident of Bangor, Pennsylvania, was employed as a traveling salesman, receiving \$10,000 in commissions based on volume of sales made by him. He solicited business within the Approving Subdivision and Allentown during the year totaling \$100,000, of which \$60,000 was attributable to Approving Subdivision. The tax is \$60.00, computed as follows:

$$\frac{\$60,000 \text{ within the A.S.} \times \$10,000}{\$100,000 \text{ total sales}} = \$6,000 \times 1\% = \$60$$

A.S. = Approving Subdivision

The place of solicitation shall generally determine whether the business transacted was within or outside of Approving Subdivision. An exception to this principle is the case of nonresident, full time insurance agents. The test of taxable commissions received shall be the location of the risk at the time the policy was issued.

C. If the employee receives both salary and commissions, the tax shall be allocated on the basis of working days and volume of business transacted, in accordance with A. and B. above.

D. A nonresident who is employed entirely outside the Approving Subdivision but who enters the Approving Subdivision for the purpose of reporting, receiving instruction, entirely incidental to his duties outside the city, shall not be subject to the Approving Subdivision Earned Income Tax.

E. Where it is impractical to apportion or allocate the compensation at the end of each month, the apportionment or allocation may be made at the end of the year and the tax adjusted accordingly.

F. Any apportionment or allocation of tax for purposes of withholding of tax by the employer shall be supported by appropriate records of the employer.

SECTION 209. ILLUSTRATIONS OF TYPES OF EMPLOYMENT INVOLVING NONRESIDENTS WHO WORK PART TIME IN THE APPROVING SUBDIVISION (Applicable to Cities, Boroughs, Towns and Townships.)

A. Nonresident Auditors - Where an auditor travels several times a year from a main office not located in the Approving Subdivision to the Approving Subdivision office to make audits of records in that office, each audit requiring several days work, the remainder of his time being spent in other cities (where such conduct is an established procedure), the tax must be on a prorata basis.

B. Nonresident Officers of Businesses, Corporations, and All Types of Organizations - A nonresident officer of a corporation, performing services outside of the Approving Subdivision who visits the Approving Subdivision office, is not subject to the tax provided such visit is entirely incidental to his duties outside of the Approving Subdivision.

C. Nonresident Commercial Transportation Employees - Where it is impracticable to apportion the earnings of nonresident Commercial Transportation, Motor Freight, Railroad Train and Engine Service employees, the following rules of allocation are prescribed:

(1) Services performed while passing through the Approving Subdivision - The services performed within the Approving Subdivision are considered merely incidental to the services performed outside the Approving Subdivision. Therefore, such nonresident employee shall not be deemed to be engaged in a taxable activity within the Approving Subdivision.

(2) Services performed in connection with commercial transportation which either begins or terminates in the Approving Subdivision - Where such service is preponderantly outside the Approving Subdivision, the nonresident employee is not engaged in a taxable activity within the Approving Subdivision. "preponderantly" shall mean in excess of ninety (90%) percent.

(3) Services performed in connection with commercial transportation both within and outside of the Approving Subdivision - The tax upon the compensation earned within Approving Subdivision shall be determined on the basis of the mileage within the Approving Subdivision. It shall be computed in accordance with the basic mileage or other rate of pay of such nonresident employee.

#### FORMULA

$$\frac{\text{Mileage in A. S.}}{\text{Total Mileage}} \times \text{amount of pay} \times 1\% = \text{tax}$$

A.S. = Approving Subdivision

(4) Services performed entirely within the Approving Subdivision. The gross earnings of nonresident commercial transportation employees who work entirely within the Approving Subdivision are taxable.

D. Insurance Agents -

(1) Full Time Agents - The term "full time agent" means a person required by the terms of his agency contract, either to devote all of his time to the solicitation of business for one company, or to offer all of his business to one company and to

place with other companies only such business as is not accepted by his full time company.

(a) Basic Commissions - The basic commissions of nonresident full time agents resulting from services performed in the Approving Subdivision are taxable. The principle shall be the location of the risk at the time of the policy's issuance. For life, accident and health insurance, the location of the risk shall be the residence of the insured; for casualty and fire insurance, it shall be the physical location of the property insured.

Commissions received by a nonresident on policies sold to residents are taxable whether they result from policies placed with his full time company, from surplus business placed with other companies, or from types of insurance.

Commissions received by a nonresident full time agent, on policies sold to nonresidents are not subject to this tax unless the agent has a place of business within the Approving Subdivision other than the space provided by the company with which he has his full time contract. In such case, the commissions on all policies, other than those placed with his full time company are subject to this tax as the profits or earnings of an independent business.

(b) Group Insurance Commissions - Commissions paid on the sale of contracts of group insurance are taxable: (1) if the agent negotiating the same is a resident of the Approving Subdivision, without regard to the location of the group, (2) if the group is located within the Approving Subdivision, as a unit without regard to the resident of the writing agent.

(c) Bonuses and Incentive Payments - Bonuses and Incentive payments received by nonresident agents are taxable. The tax is computed as follows:

#### FORMULA

$$\frac{\text{Commission on sales to residents}}{\text{Total Commissions}} \times \text{bonus} \times 1\% = \text{tax}$$

(d) Collection of Tax at Source -

(i) Companies doing business in the Approving Subdivision (or general agents in the cases of companies whose contracts are with a general agent alone and to whom payment is made by general agent out of funds of general agent) shall deduct and withhold the tax on all compensation paid to resident and

nonresident full time agents who are employees, in accordance with Section 206.

(ii) The term "general insurance agent" means a person who conducts his own independent insurance business, soliciting applications for more than one type of insurance and placing his business with more than one company, and who is not a full time representative of any company.

(iii) Commissions received by a nonresident part time agent, or a nonresident general insurance agent, on policies sold to residents of the Approving Subdivision are subject to this tax.

(2) General Agents and Manager - The term "general agent" means a person who is engaged by a company to develop and manage one of its agencies as his own independent business and whose compensation ordinarily (but not necessarily) is in the nature of commissions and allowances, rather than a salary.

The term "manager" means a person who is engaged by a company as an employee to develop and manage one of its agencies and who ordinarily (but not necessarily) receives a salary rather than overriding commissions as compensation for his managerial services.

(a) Commissions on Policies Sold by General Agents and Managers Personally - Commissions received by general agents and managers who are nonresidents on policies sold by them personally are taxable in the same manner as nonresident full time agents.

## SECTION 210. NURSES

A. Registered Nurses - Registered nurses who offer services as independent contractors are in the same status as other professional persons. They shall file a Declaration of Estimated Tax upon earnings.

B. Practical Nurses - The regulation pertaining to registered nurses applies also to practical nurses who offer services as independent contractors.

C. Hospital Nurses - Nurses in the permanent or part time employ of hospitals, clinics, schools and institutions shall have their earned income tax withheld by their employers.

## SECTION 211. MUSICIANS, ENTERTAINERS AND SPEAKERS

A. In the field of professional music there has arisen the practice of engaging

musicians exclusively through a so-called "contractor". The practice, which arose by prescription of the American Federation of Musicians and of local union regulations, enables the purchaser of music to deal with only one of the number of musicians required for a particular occasion.

(1) Contractor - The term "contractor" means that individual musician through whom the purchaser and the musician negotiate the contract of service and the performance thereof.

The contractor may or may not perform actual musical service under a contract which he has negotiated.

(2) Purchaser of Music - The person, partnership, organization or association, for whom or which the musical services are to be performed or furnished, and who exercises an employer's control over the conduct of the musicians.

(3) Name Bands and Orchestras - A name band or orchestra is one which is identified or known by a name and which holds itself out to the public as a permanent organization, and in addition has either (a) fixed personnel or (b) the individual member musician has contracted for his services with the leader or owner of the band at a fixed salary, by term or by individual engagement, and over whom the purchaser has no direct control.

(4) When a contract for the purchase of music has been executed between a purchaser and a contractor, then the musician shall be deemed to be the employee of the purchaser.

The purchaser shall be the person responsible for withholding the tax from the wages paid to musicians.

B. Entertainers Other Than Musicians - An entertainer other than a musician is usually engaged by a purchaser through a booking agent. The booking agent, once the contract of employment has been executed, does not exercise an employer's control over the entertainer.

The owner of a club, cafe, taproom, theatre or of any place which furnishes entertainment to the public or to its patrons, shall be deemed the person liable as an employer of entertainers. Such employer must deduct the tax from the compensation paid to the entertainer.

Promoters of boxing exhibitions and other sporting events are required to withhold the tax from the compensation paid to the contestants engaged in the particular sporting event.

C. Lecturers and Speakers - The fees received by lecturers and speakers for

services performed in the Approving Subdivision are subject to the earned income tax; the responsibility for the collection of the tax lies with the purchaser.

#### SECTION 212. MINISTERS, RABBIS AND CLERGYMEN

Salaries paid by organized religious bodies to ministers, rabbis, clergyman, evangelists or religious workers are taxable. The organized religious body shall withhold the tax upon such salaries and make remittance to the Income Tax Officer.

Voluntary offerings by individuals made to clergymen at marriages, baptisms, funeral services, Masses and prayers for the dead are taxable.

#### SECTION 213. DOMESTICS

The compensation received by domestics is taxable. The employer may, with the consent of the domestic, withhold the tax. Where such consent is not obtained, it is the duty of the domestic to file a declaration of estimated earnings as provided in Article III of these regulations.

Where the duties of domestics require them to live at their places of employment, board and lodging shall not be considered as wages or salary earned.

#### SECTION 214. OFFICERS AND EMPLOYEES OF THE UNITED STATES, THE COMMONWEALTH OF PENNSYLVANIA, OR OF ANY POLITICAL SUBDIVISION THEREOF

Officers and employees of the United States, the Commonwealth of Pennsylvania, or of any political subdivision thereof, whose earned income tax is not subject to withholding, shall file a Declaration of Estimated Tax and make quarterly payments as prescribed.

#### SECTION 215. PERSONS AND ACTIVITIES SUBJECT TO TAX ON NET PROFITS

A. Individuals - Any individual engaged in a business, trade, profession or other activity, carried on for profit, shall pay a tax on the net profits therefrom.

B. Partnerships, Associations and Other Entities - Each partner or member of a partnership, association or other entity owned by two or more persons and carrying on a business, trade, profession or other activity, wholly or partly within the Approving Subdivision shall be required to pay the tax on net profits of their partnership, association or other entity, proportionately to the extent of each partner or member's tax liability on their distributive share of net profits, whether or not the net profits are actually distributed to the

partner or members. The liability of any nonresident partner or member for the tax shall be determined in accordance with Sections 206 and 217 of these regulations.

C. Rental Income - The rental income received from the regular operation of real estate under license by the Commonwealth of Pennsylvania or as a business is subject to the tax.

#### SECTION 216. ACTIVITIES NOT SUBJECT TO TAX ON NET PROFITS

The following are exempt from the tax on net profits:

A. The net profits of any institution or organization operated for public, religious, educational or charitable purposes; organizations or institutions not organized for private profit; and trusts or foundations established for any of these purposes.

B. The net profits of all corporations which are subject to or exempt from the Pennsylvania Corporate Net Income Tax or the Pennsylvania Franchise Tax.

#### SECTION 217. NET PROFITS OF NONRESIDENTS (Applicable to Cities, Boroughs, Towns and Townships)

A. Where Entire Business is Transacted in the Approving Subdivision - A nonresident individual, partnership, association or other entity, conducting or carrying on any business, profession, enterprise, or other activity, is required to pay the tax on the entire net profits thereof, earned on and after January 1, if the entire business is conducted or carried on in the Approving Subdivision, even though such nonresident may not maintain a store or office in the Approving Subdivision.

Nonresidents are considered to be "conducting" a business in the Approving Subdivision if they do any one or more of the following within the Approving Subdivision (1) solicit orders, or (2) render services or execute or perform contracts, or (3) make sales.

Thus, for example, a dairy not located in the Approving Subdivision is liable for the tax where it sells products from its trucks within the Approving Subdivision.

Where the nonresident has a branch office, store, or office located in the Approving Subdivision, he shall be considered to be conducting a business to the full extent of all transactions originating or consummated in, by or through, such Approving Subdivision branch, office, or store.

B. Where Sole Store or Office is in the Approving Subdivision - A nonresident who maintains his sole store or office in the Approving Subdivision and transacts business both within and outside of the Approving Subdivision is entitled to an allocation of his net profits. The net profits of such business conducted in the Approving Subdivision shall be

subject to the Approving Subdivision Earned Income Tax. The net profits of such business conducted outside the Approving Subdivision shall not be subject to the Approving Subdivision Earned Income Tax.

A nonresident surgeon, for example, who maintains an office in the Approving Subdivision and none outside of the Approving Subdivision, would be permitted to allocate the tax as to fees received for operations actually performed outside of the Approving Subdivision. The same applies to a nonresident attorney as to fees received for trial of cases outside of the Approving Subdivision. Likewise, a nonresident general insurance agent would allocate on policies of insurance sold by him in accordance with Section (D)(2)(A).

C. Allocation Where Taxpayer Has Places of Business Inside and Outside of the Approving Subdivision - A nonresident, who in addition to having a place of business or office outside the Approving Subdivision also maintains a store or office in the Approving Subdivision, and transacts business both within and outside of the Approving Subdivision, shall be entitled to an apportionment or allocation of his net profits.

If such nonresident claims an allocation on the basis of a store or office outside the city, he must be prepared to prove that it is an established, self-sustaining, bona fide office.

Whether or not a taxpayer has a place of business or office in a particular location is a question of fact, depending upon the particular circumstances in each case. Certain factors, however, are helpful, e.g., personnel, office equipment, stationery, where records are kept, "holding out" to the public (telephone listing), etc.

D. Special Allocation Formula - In some instances it may be impossible to allocate with certainty the net profits subject to tax. This may occur because the taxpayer has no office or store in the Approving Subdivision or because his records do not show the actual net profits where he does have an Approving Subdivision branch. In such cases, the use of the so-called "Massachusetts Formula" of allocation is permitted.

The factors in this special formula are:

(1) Real and Tangible Personal Property - The taxpayer computes a percentage on the basis of a fraction using the total average value of all real and tangible personal property located in the Approving Subdivision as the numerator, and the total average value of all such property located within and outside of Harrisburg Approving Subdivision as the denominator.

(2) Wages and Salaries - A percentage is computed on the basis of a fraction using the total amount of wages, salaries paid to the employees who work in, or from, or attached to places of business located in the Approving Subdivision as the numerator, and the total amount of such wages and salaries paid to all employees both within and outside of the Approving Subdivision as the denominator.

(3) Gross Receipts - A percentage is computed on the basis of a fraction using as the numerator gross receipts from sales or services within the Approving Subdivision and as the denominator all gross receipts from sales or services made both within and outside the Approving Subdivision.

Averaging - The percentages thus obtained are to be added together and the total divided by three (3) to obtain the average of the three percentages.

Illustration:

(i)  
Real & Tangible Pers. Prop. In A. S. = \$25,000  
----- = 25%  
All Real & Tangible Pers. Prop. = \$100,000

(ii)  
Wages, Salaries in A. S. = \$10,000  
----- = 20%  
All Wages, Salaries = \$50,000

(iii)  
Gross Receipts in Harrisburg = \$75,000  
----- = 25%  
All Gross Receipts = \$300,000

(iv)  
Total of above percentages = 70%

(v)  
Average of percentages = 23-1/3%

A.S. = Approving Subdivision

Thus, twenty-three and one-third (23-1/3% percent of the net profits is allocatable to the Approving Subdivision's Earned Income Tax of one (1%)percent.

However, if the numerator and the denominator of any of the above fractions are both zero, that factor shall be omitted in calculating the average of the percentages. In such event, the total of the remaining percentages shall be divided by the remaining number of factors. If, however, the numerator alone is zero and the denominator is represented by an amount, there is a resultant factor that is zero, which is to be included in the calculation of the average of the percentages.

The net profits of transportation and hauling companies shall be allocated upon the basis of the ratio of the number of miles operated, leased, and/or traveled over in the Approving Subdivision to the number of miles operated and leased everywhere as of the

end of each calendar or fiscal year.

Allocation with Respect to Partnerships, Associations and Other Entities - If all partners or members are residents of the Approving Subdivision irrespective of where the activities of the partnership, association or other entity are conducted or if all the activities of the partnership, association or other entity are conducted in Approving Subdivision, irrespective of the residence of the partners or members all of the net profits of the partnership, association or other entity shall be taxable to the individual partners or members proportionately into their distributional share of the net profits of the partnership, association or other entity. If all or any of the partners or members are nonresidents, then the nonresident partners or members are only liable for the tax on their distributional share of the net profits derived from business actually conducted in the Approving Subdivision, and resident partners or members are liable for the tax on their entire distributional share of the net profits.

For example: One partner (a resident of the Approving Subdivision) has a 10% distributional share, second partner (a nonresident of the Approving Subdivision) has a 30% distributional share, third partner (a nonresident of the Approving Subdivision) has a 60% distributional share, net profits \$100,000.00, 45% of business conducted in the Approving Subdivision, 55% outside the Approving Subdivision. As to the \$45,000 net profit derived from business inside the subdivision, \$4,500 or 10% is taxable to the first partner, \$13,500 or 30% is taxable to the second partner, \$27,000 or 60% is taxable to the third partner. As to the net profits from business outside of the Approving Subdivision, \$5,500 or 10% is taxable to the first partner.

F. Alternative Allocation Formula - The Income Tax Officer may provide for a different method of allocation with due regard to the nature of the business concerned, where it appears that any of the prescribed allocation formulae work unfairly or inequitably as to a particular taxpayer or class of taxpayers.

## SECTION 218. COMPUTATION OF NET PROFITS

The net profits of a business, trade, profession or other activity shall be computed by subtracting from gross receipts the cost of goods sold and all ordinary and necessary expenses of doing business. Ordinarily no business deduction which is not permitted by the Federal Government for income tax purposes will be allowed. All persons are presumed to be on a cash basis, but when the books of a taxpayer are kept on an accrual or other basis, which is used for Federal Income Tax purposes, such basis must be used for the purpose of computing the Earned Income Tax on net profits.

## SECTION 219. ILLUSTRATION OF COMPUTATION OF NET PROFITS

In amplification of the definition contained in Section 218, above, but not in limitation thereof, the following additional information and requirements for the determination of net

business profits are furnished:

A. Where necessary to properly reflect income, inventories must be used. The basis of pricing used for the purpose of the Federal Income Tax must be used in each instance.

B. Where the books and records are kept on an "accrual basis," whichever is used in the filing of Federal Income Tax returns must be used for the purpose of this tax.

C. Explanation of "Cash Basis" and "Accrual Basis" - No uniform method of accounting is prescribed. Each taxpayer shall adopt such forms and methods of accounting as in his judgment are best suited for his purposes. The two principal methods of accounting are: (1) the cash receipts and disbursement method, generally called the "cash basis" method; and (2) the "accrual basis" method.

Generally speaking, under the cash basis, income is taken into account when actually received and expenses are deducted when amounts are actually paid out. Under the accrual method, income is taken into account when it is earned and expenses deducted as soon as incurred.

A combination of accounting methods, is permitted, provided it clearly reflects income. Thus, for example, small retail stores may accrue items of gross income such as purchasers, sales of goods, accounts receivable and accounts payable, and take a cash deduction for such items as rent, interest, salaries and insurance.

A taxpayer engaged in more than one business may, in computing taxable income, use a different method for each trade or business.

(1) "Cash Basis" Method - A taxpayer employing the cash basis of accounting includes in gross income all income subject to tax received during the year in cash or its equivalent. He deducts all disbursements made during the year in cash or its equivalent, provided deduction for such expenditures is authorized by law.

The use of the cash basis is mandatory where no books or records of account are maintained.

Items of income and expenditure which, as gross income and deduction, are elements in computing taxable income need not necessarily be in the form of cash. It is sufficient that such items, if otherwise properly included in the computation, can be valued in terms of money.

Example: A taxpayer on the cash basis receives shares of stock in payment of services. Assuming that the stock has a fair market value, the taxpayer has received the equivalent of cash to the extent of its value and that amount must be included as income.

If the return is made on a "cash basis," gross profit shall include receipts from commissions, fees and interest, as well as the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, causes-in-action and services.

(2) "Accrual Basis" - If income is taken into consideration when earned, even though not received in cash, and expenses are considered as soon as incurred, whether paid or not, the system of accounting is said to be on an "accrual basis." These are the basis rules: (1) the right to receive an item of income (as distinguished from actual receipt) determines its inclusion in gross income under the accrual method; and (2) a deduction cannot be accrued until an actual liability is incurred.

(a) Example: In September of the preceding year a contractor performed work for a customer. Payment for the work was not received until the current year. If the taxpayer reports on the accrual basis, the income will be included in his preceding year return (when earned). If he reports on the cash basis, the payment will be included in his current year (when received).

(b) A suggested form to be used in computing net profits on an accrual basis. If the return is made on an "accrual basis," gross profit shall include: (1) commissions, fees and interest earned, plus (2) the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, causes-in-action and services, computed as follows:

Gross Sales or Billings.....	_____
Less: Returns & Allowances Actually Made.....	_____
Net Sales or Billings .....	(A) _____
Opening Inventory .....	_____
Purchases .....	_____
Manufacturing Costs (Labor, etc., where applicable) .....	_____
TOTAL	_____
Less: Closing Inventory .....	_____
Cost of Goods Sold .....	_____
	(B) _____
Gross Profit (or Loss) = A - B	

(i) From gross profits subtract allowable expenses to arrive at the net profits subject to tax (See below).

(ii) All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed. (No deduction may be claimed for "salary" or withdrawals of a sole

proprietor or of the partners or members of an unincorporated business or enterprise.)

(iii) There may be claimed and allowed, a reasonable deduction for depreciation (or abandonment) of property used in the trade or business, and for depletion or obsolescence, but the amount may not exceed that recognized for the purpose of the Federal Income Tax.

(iv) Bad debts, in a reasonable amount, may be allowed in the year ascertained worthless and charged off, or, at the discretion of the Income Tax Officer (if the reserve method is used), a reasonable addition to the reserve may be claimed, but in no event shall the amount allowed exceed the amount recognized as a deduction for the purpose of the Federal Income Tax.

(v) Taxes. There may be claimed as a deduction all taxes directly connected with the operation of the business and on business property. In any event, the following taxes may not be deducted: (a) the tax under the Harrisburg Earned Income Tax Ordinance approved November 30, 1976; and (b) any federal, state or local taxes based upon income.

(vi) A taxpayer may not offset taxable compensation such as salary or wages with net losses incurred in a business. A taxpayer may offset net profits derived from one business with net losses incurred in another business.

(vii) "Net Loss" in any year may not be carried to any other year.

D. Methods of Account Must Clearly Reflect Income - No method of accounting is allowed unless it clearly reflects income. Thus, even if the taxpayer's accounts are kept and the return made on a cash basis, unusual cases may arise in which a payment made during the year is not deductible.

Example: Commissions, fees and costs paid in one year by a taxpayer in securing a loan for ten or fifteen years covered by a mortgage on property to be leased are not deductible in full in the year of payment, but should be spread over the period of the loan, even though the taxpayer's accounts are kept and the return made on the "cash basis".

### ARTICLE III

#### DECLARATIONS, PAYMENTS OF TAX

## AND RETURNS

### SECTION 301. WHO MUST FILE A DECLARATION OF ESTIMATED EARNINGS (Form 521)?

The following must file a declaration of estimated earnings:

A. Every person engaged in any business, profession or other activity who reasonably expects that he will earn any taxable net profits.

B. Every person who is employed on a salary, wage, commission or other compensation basis and who reasonably expects to earn any taxable earnings which are not subject to withholding by an employer. Thus, each employee who is a resident of the Approving Subdivision, regardless of where he may be employed, and each employee who is not a resident of the Approving Subdivision, but who works all or part time within the Approving Subdivision shall make a declaration of his estimated earnings if he:

(1) Works for an employer who or which is:

(a) A department, board, agency or other instrumentality of the United States government or of the Commonwealth of Pennsylvania, or of any other State; or

(b) Engaged in private industry with no office or other business or personal address in the Approving Subdivision: or

(2) Performs duties as a domestic or practical nurse.

### SECTION 302. DATE DECLARATION SHALL BE FILED

On or before April 15 of the current year every person required to do so shall make and file with the Income Tax Officer on a form prescribed by him (Form 521), a declaration of his estimated earnings from January 1 to December 31 of the current year, inclusive. The declaration shall set forth the estimated amount of income anticipated during this period and subject to the tax, the amount of tax imposed on such estimated income, and such other information as the Income Tax Officer may require.

### SECTION 303. PAYMENT DATES FOR THOSE FILING DECLARATIONS

A. Every person who makes a declaration of estimated earnings for the period January 1 to December 31 of the current year shall have the following payment schedule:

(1) At the time of filing the declaration, pay the Approving Subdivision

one-fourth ( $\frac{1}{4}$ ) of the estimated tax due in each of three (3) separate installments, as follows:

- (a) on or before June 15 of the current year;
- (b) on or before September 15 of the current year;
- (c) on or before January 15 of the succeeding year.

(2) Every person who makes a declaration may waive payment of his estimated tax installment due January 15 of the succeeding year if he files a final return on or before January 31 of the succeeding year, and makes final payment or demand for refund on or before that date.

#### SECTION 304. REPORTING OF UNANTICIPATED INCOME

A. Every person who on April 15 of the current year did not reasonably expect to earn any taxable net profits or earnings not subject to withholding from January 1 to December 31 of the current year, and who after April 15 of the current year reasonably expects to earn such taxable profits or earnings on or before December 31 of the current year shall make and file on or before June 15 and September 15 of the current year or January 15 of the succeeding year, whichever of these dates next follows the date on which the taxpayer first reasonably expects such net profits or earnings, a declaration similar to that required under Section 302. The taxpayer making the declaration shall, at the time of filing, pay to the Income Tax Officer the estimated tax due, provided, however, that he shall have the right to pay the estimated tax in equal installments on or before the quarterly installment payment dates which remain after the filing of the declaration (See Section 303).

B. The Income Tax Officer shall provide for the filing of adjusted declarations of estimated net profits and taxable earnings and for the payment of the estimated tax. This may be necessary in cases where a taxpayer who has filed the declaration hereinabove required shall thereafter either reasonably expect additional net profits or earnings not previously declared or find that he has overestimated his net profits or earnings.

#### SECTION 305. ANNUAL RETURNS BY EMPLOYEES AND OTHERS

A. On or before April 15 of the succeeding year, every person who has earned taxable net profits or earnings, shall file with the Income Tax Officer, on a form prescribed by him (Form 531), a final return showing all taxable income from January 1 to December 31 of the current year. Also, there should be shown the total amount of tax due, the amount of estimated tax paid, and the balance due. A return is required from every taxpayer if (1) he was required to file a declaration of estimated earnings, or (2) if some part of his earnings were not subject to withholding. If the total taxable earnings of a

taxpayer were subject to withholding, the filing of a final return is also required, wherein any additional miscellaneous income, upon which there was no withholding, must be declared and the tax paid thereon.

B. When the return is made for a fiscal year different from the calendar year, the return shall be filed within one hundred and five (105) days from the end of the said fiscal year.

C. 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.

D. Every taxpayer who discontinues business prior to the end of the calendar year, shall within thirty (30) days after the discontinuance of business, file his final return as hereinabove required and pay the tax due, or demand refund or credit in the case of overpayment.

E. A taxpayer who makes a final return by January 31 of the succeeding year may waive payment of his estimated tax installment on January 15 of the succeeding year if he makes final payment or demand for refund on or before January 31 of the succeeding year (See Section 303(A)(2)).

#### SECTION 306. RETURNS OF EMPLOYERS AND PAYMENT OF WITHHELD TAX

A. Every employer required to withhold tax (see Section 402 of these regulations) shall on or before April 30, July 31, October 31 of the current year and January 31 of the succeeding year file a return, on a form prescribed by the Income Tax Officer (Form 511), setting forth the taxes withheld, and pay to the Income Tax Officer the amount of tax withheld for the preceding quarterly periods ending March 31, June 30, September 30 of the current year and December 31, respectively, of the succeeding year.

B. On or before February 28 of the succeeding year, every such employer shall file with the Income Tax Officer the following:

(1) An annual return showing the total amount of taxable salaries, wages, commissions and other compensation earned by his employee or employees, the total amount of tax deducted, and the total amount of tax paid to the Income Tax Officer with respect to such taxable compensation (Form 512: Reconciliation of Income Tax Withheld from Wages.)

(2) A return with respect to each employee who earned any taxable salary, wages, commissions or other compensation, setting forth the employee's name, political subdivision, and social security number, the amount of such taxable compensation, the amount of tax deducted therefrom and such other information as the Income Tax Officer may require (Withholding Tax Statement or IRS Form W-2).

C. On or before February 28 of the succeeding year, every employer shall furnish two copies - Copies B and C - of the individual return provided for by subparagraph 2 to the employee with respect to whom it is filed or equivalent copies of IRS Form W-2.

D. Every employer who discontinues business prior to the completion of the taxable year, shall, within thirty (30) days after discontinuance of business, file the returns required by this section and transmit to the Income Tax Officer any tax remaining due.

E. If any salaries, wages, commissions or other compensation earned from January 1 to December 31 of the current year, inclusive, are paid on or after January 1 of the succeeding year, the tax shall be withheld, and the amount of the tax transmitted to the Income Tax Officer within thirty (30) days after such payments.

## ARTICLE IV

### COLLECTION AT SOURCE

(Applicable to Cities, Boroughs, Towns and Townships)

#### SECTION 401. REGISTRATION OF EMPLOYERS

A. Every employer within the Approving Subdivision who employs one or more persons, other than domestics, on a salary, wage, commission or other compensation basis shall, on or before April 15, or within fifteen (15) days after becoming an employer, register with the Income Tax Officer his name and address and such other information as the Income Tax Officer may require.

B. Employers required to register include all employers who are residents of the Approving Subdivision and all other employers required to withhold the tax pursuant to Section 402.

#### SECTION 402. EMPLOYERS REQUIRED TO WITHHOLD

A. Every employer within the Approving Subdivision who employs one or more persons, other than domestics, on a salary, wage, commission or other compensation basis shall deduct at the time of payment thereof, the tax imposed by the Ordinance on such compensation. Such employers, who withhold a total of \$50.00 or more during the first or second month of any calendar quarter, may remit or may be required by the Income Tax Officer to remit the actual amount of the tax so withheld to the Income Tax Officer on or before the fifteenth (15th) day of the month during which the tax was deducted.

B. An employer who is engaged in a business activity within and outside the Approving Subdivision shall withhold from resident and nonresident employees who work

for such employers within the Approving Subdivision even though the payroll records and place of payment are not in the Approving Subdivision.

C. According to Section 9 of Act No. 511, Act of December 31, 1965, Employers are not required to withhold until July 1, 1977, or when the ordinance appears in the Registry of the Department of Internal Affairs. Therefore, an employer may or may not withhold as he or it chooses without incurring a liability for taxes not withheld. If an employer chooses not to withhold, then the employee must file a Declaration of Estimated Tax and make quarterly payments as indicated in Section 214.

#### SECTION 403. WITHHOLDING BY NONRESIDENT EMPLOYERS AND EMPLOYERS OF DOMESTICS

Nonresident employers engaged in a business, trade, profession or other activity located outside of the Approving Subdivision and employers (whether or not resident in the Approving Subdivision) of persons performing domestic services are not required to withhold the tax. Any such employer may, however, voluntarily agree with his employee to withhold the tax and transmit it to the Income Tax Officer of Approving Subdivision.

#### SECTION 404. WITHHOLDING TAX FROM DRAWING ACCOUNTS

If the amount received by an employee as a drawing account exceeds the salaries or commissions earned, the tax shall be withheld on the amount received. If the employee subsequently repays any amount not in fact earned, the tax shall be adjusted accordingly.

#### SECTION 405. LIABILITY OF EMPLOYEE

A. If an employer required to withhold tax does so withhold, the amount withheld shall constitute in the hands of such employer a trust fund held for the account of the Approving Subdivision as beneficial owner thereof and the employee from whose compensation such tax was withheld shall be deemed to have paid such tax. The provisions of this paragraph are not applicable in the case of an employer who is not required to withhold tax (see Section 403).

B. The failure of any employer to withhold the tax shall not relieve the employee from payment of such tax, where payment has not been secured from the employee.

### ARTICLE V

#### ADMINISTRATION AND ENFORCEMENT

SECTION 501. ADMINISTRATION AND ENFORCEMENT BY THE INCOME TAX OFFICER - RULES AND REGULATIONS

The Income Tax Officer is charged with the administration and enforcement of the Ordinance. The Income Tax Officer is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of the provisions of the Ordinance. This includes provision for re-examination and correction of declarations and returns and of payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred; and to prescribe forms necessary for the administration of the Ordinance. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution by the governing body of the Approving Subdivision. A copy of such rules and regulations currently in force shall be available for public inspection. Any taxpayer or employer desiring a specific ruling should submit all of the pertinent facts in writing to the Income Tax Officer and request a determination of his liability for the tax.

SECTION 502. EXAMINATION OF BOOKS AND RECORDS OF TAXPAYERS AND EMPLOYERS

A. The Income Tax Officer and agents designated in writing by him are authorized to examine the books, papers, and records of any taxpayer or supposed taxpayer or of any employer or supposed employer 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 taxpayer or supposed taxpayer and every employer or supposed employer is required to give to the Income Tax Officer or to any agent so designated by him the means, facilities and opportunity for such examinations and investigations as are authorized.

B. The information obtained by the Income Tax Officer, his agent or any other official or agent of the Approving Subdivision, as a result of any declarations, returns, investigations, hearings or verifications required or authorized, is confidential and shall not be disclosed to any person, except for official use in connection with the administration or enforcement of the Ordinance, or as otherwise provided by law.

SECTION 503. RECORDS TO BE KEPT BY TAXPAYERS

Taxpayers and employees subject to the Ordinance are required to keep such records as will enable the filing of true and accurate declarations and returns, whether of taxes withheld at source or of taxes payable upon earnings or net profits, or both; and such records shall be preserved for a period of not less than six (6) years in order to enable the Income Tax Officer or any agent designated by him to verify the correctness of the declarations or returns filed.

SECTION 504. REFUNDS

A. Any taxpayer, whether he has paid the tax on net profits, or whether he has personally paid the tax on his earnings because his employer is not subject to withholding, may claim a refund on Form 531, Final Return for Earned Income Tax.

Where an employer has erroneously withheld and paid any amount of the tax for an employee, the employer may file the claim for refund on behalf of the employee. The Income Tax Officer will pay claims for refund in proper cases.

B. The Income Tax Officer is authorized to accept payment of the amount of tax claimed by the Approving Subdivision in any case where any person or employer disputes the validity or the amount of the Approving Subdivision's tax claim. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Income Tax Officer, the amount of the overpayment will be refunded or credited to the taxpayer employer who paid under protest, upon the filing of a claim for refund.

#### SECTION 505. SUIT FOR COLLECTION OF TAX

A. The Income Tax Officer may sue for the recovery of taxes due and unpaid under the Ordinance.

B. Any suit brought to recover the tax imposed by the Ordinance shall be begun within three (3) years after such tax is due or within three (3) years after a 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 taxpayer or employer although a declaration or return was required to be filed by him under the provisions of the Ordinance.

(2) In the case of a false or fraudulent declaration or return with the intent to evade tax.

(3) Where any employer has deducted taxes under the provisions of the Ordinance or of these regulations and has failed to pay the amounts so deducted to the Income Tax Officer.

(4) In the case of substantial understatement of tax liability of twenty- five (25%) percent or more, and no fraud, suit shall be begun within six (6) years.

C. The Income Tax Officer may sue for recovery of an erroneous refund provided such suit is begun two (2) years after making such refund, except that the suit may be brought within five (5) years if it appears that any part of the refund was induced by

fraud or misrepresentation of material fact.

D. When suit is brought for the recovery of any such facts, the taxpayer liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

#### SECTION 506. INTEREST AND PENALTIES

If for any reason the tax is not paid when due, interest at the rate of six (6%) percent per annum on the amount of said tax, and an additional penalty of one-half of one percent (0.5%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the cost of collection and such interest and penalties.

#### SECTION 507. VIOLATIONS OF THE ORDINANCE

Violations of the Ordinance, as provided therein, are as follows:

A. Failure, neglect or refusal to file any declaration or return required by the Ordinance.

B. Failure, neglect or refusal on the part of an employer to pay the tax deducted from his employees.

C. Refusal to permit the Income Tax Officer or any agent or employee appointed by him in writing, to examine the books, records and papers of any persons subject to the Ordinance.

D. Making any incomplete, false, or fraudulent return to avoid the payment of the whole or any part of the tax imposed by the Ordinance.

#### SECTION 508. FINES AND PENALTIES FOR VIOLATION OF THE ORDINANCE

A. Any person or employer who violates the provisions of the Ordinance (see Section 507 of these regulations) shall, upon conviction thereof, before any magistrate or court of competent jurisdiction, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each offense and costs, and, in default of payment of said fine and costs, to be imprisoned in the County jail for a period not exceeding thirty (30) days.

B. Any person, employer or corporation who, except as permitted by the provisions of the Ordinance (see Section 502, B of these regulations) divulges any information which is confidential under the provisions of the Ordinance, shall, upon

conviction thereof, before any alderman or the magistrate or court of competent jurisdiction, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each offense and costs, and, in default of payment of said fine and costs be imprisoned in the County jail for a period not exceeding thirty (30) days.

C. The penalties referred to in this Section are in addition to any other penalty imposed by the Ordinance and not referred to in this Section.

D. The failure of any person or employer to receive or procure the forms required for making the declarations or returns required by the Ordinance shall not excuse him from making such declaration or return.

#### SECTION 509. APPLICABILITY OF THE TAX

A. The tax imposed by the Ordinance shall not apply:

(1) To any person or property as to whom or which it is beyond the legal power of the Approving Subdivision to impose the tax herein provided for.

(2) To the net profits of institutions or organizations operated for public, religious, educational or charitable purposes, and institutions or organizations not organized or operated for private profit, or to trusts and foundations established for any of these purposes.

This section shall not be construed to exempt any person who is an employer from the duty of withholding the tax at source from his employees and paying the amount withheld to the Income Tax Officer.

Any nonresident who is subject to a tax on earnings or net profits imposed by a political subdivision outside of the Commonwealth of Pennsylvania or imposed by any other State, shall not, for that reason, be exempt from the tax imposed by the Approving Subdivision.