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PART 1

AMUSEMENTS

§24-101. Imposition of Tax.

A tax is hereby imposed, assessed and levied for the period from and after March 15, 1969, for general revenue purposes, at the rate of 10% of the price of admissions to each and every amusement within, or originating within, the Borough of Gettysburg, which tax shall be paid by the person so admitted, providing that the person conducting such amusement shall be responsible for collecting said tax.

(Ord. 815-69, 1/13/1969, §1)

§24-102. Definitions.

The following words and phrases when used in this Part 1 shall have the meanings ascribed to them in this Section:

ADMISSION — monetary charge of any character whatever including monies, fees, dues or membership fees (periodical or otherwise) charged or paid for the privilege of attending or engaging in amusements as hereinafter defined; provided, that when such amusement is conducted at any night club, cabaret or like place where the charge for admission is wholly or in part included in the price paid for refreshment, service or merchandise, the admission to such amusement shall be deemed to be the amount of the cover or minimum charge, if any, and provided further, that in the case of persons (except bona fide employees of the person conducting the amusement or municipal or state officers on official business) admitted free or at reduced rates at a time when, and under circumstances under which an established price is charged to other persons, the term “admission” shall mean the established price as charged to other persons.

AMUSEMENT — all manner of entertainment, including, but not limited to, theatrical performances, operatic performances, motion picture exhibitions, museums, carnivals, circuses, shows, sideshows, vaudeville, sports events, swimming or bathing pools, amusement parks and all forms of entertainment therein, dancing, golf courses or miniature golf courses, bowling alleys, athletic contests, sports, displays, sight-seeing or observation points or towers, tourist attractions and any other form of diversion, sport, pastime, recreation, instruction or observation to or for which admission is charged or paid; provided, that “amusement” shall not, for the purpose of this Part 1, include the following, which shall not be taxable hereunder: any form of entertainment sponsored by or from which the proceeds thereof, after payment of reasonable expenses, inure to the benefit of religious, educational, beneficial, properly chartered volunteer fire companies, or volunteer police or civil defense organizations.

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PERSON — any individual, partnership, limited partnership, association or corporation.

(Ord. 815-69, 1/13/1969, §2)

§24-103. Monthly Report and Payment of Tax Over to Treasurer.

On or before the 15th day of each month following the conduct of an amusement, the person conducting such amusement shall transmit to the Treasurer of the Borough a report of the total admissions charged or collected the previous month and the total amount of tax due, and at the same time shall pay to said Treasurer the total amount of tax due for the operations of the preceding month; provided, however, that as compensation for the expense of collecting and remitting the same, and as a consideration for the expense of collecting and remitting the same, and as a consideration for the prompt payment thereof, if such report is transmitted and tax due paid within the time here prescribed, then such person shall be entitled to credit and retain against the tax due a discount of 2% thereof.

(Ord. 815-69, 1/13/1969, §3; as amended by Ord. 936-78, 3/14/1978)

§24-104. Records to be Kept by Persons Conducting Amusements; Access Thereto; Confidential Nature Thereof.

Each person conducting an amusement within the Borough shall keep an accurate record of all admissions charged or collected and the Mayor or his properly appointed agent or agents, or the Borough Auditors, shall have access to the books and records relating to the number of admissions charged or collected of the person conducting such amusement at reasonable times for the purpose of verifying and ascertaining the number of paid admissions received or charged by such person, provided that any information gained by the Mayor, or his duly authorized agent, or the Borough Auditors, as a result of any reports, investigations, or verifications required or authorized by this Part 1 shall be confidential except for official purposes, and any disclosure of any information contrary to the provisions of this section shall constitute a violation of this Part 1.

(Ord. 815-69, 1/13/1969, §4)

§24-105. Enforcement by Treasurer.

The Treasurer of the Borough of Gettysburg is hereby charged with the enforcement of this Part 1.

(Ord. 815-69, 1/13/1969, §5; as amended by Ord. 1028-85, 8/12/1985)

§24-106. Penalty Added to Unpaid Tax.

If any tax levied in pursuance of this Part shall not be paid when due, a penalty of 10% of the amount of tax due and unpaid shall be added thereto, which penalty shall be in addition to interest at the rate of 6% per annum on the amount of said tax not paid when due.

(Ord. 815-69, 1/13/1969, §6)

§24-107. Tax, Interest and Penalty to be Paid into Borough Treasury.

All taxes, interest and penalties collected or recovered by the Mayor or any other Borough officer or person for or on behalf of the Borough, shall be paid into the Borough Treasury as general revenue to be used for general revenue purposes.

(Ord. 815-69, 1/13/1969, §7)

§24-108. Expenses to be Paid by the Borough.

All expenses incurred in the administration of this Part 1 shall be paid by the Borough.

(Ord. 815-69, 1/13/1969, §8)

§24-109. Penalties.

Any person, firm or corporation who shall violate any provision of this Part 1 shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300; and/or to imprisonment for a term not to exceed 90 days. Provided: that such fine or penalty shall be in addition to any other penalty imposed by any other section of this Part 1.

(Ord. 815-69, 1/13/1969, §9; as amended by Ord. 102885, 8/12/1985)

PART 2

PER CAPITA

§24-201. Imposition of Tax.

A per capita tax of \$5, for general Borough purposes, is hereby levied and assessed under the authority of the Local Tax Enabling Act and its amendments, upon each resident or inhabitant of the Borough of Gettysburg over the age of 18 years, which tax shall be in addition to all other taxes levied and assessed by the said Borough pursuant to any other laws of the Commonwealth of Pennsylvania.

(Ord. 6812-B, 1/2/1968, §1; as amended by Ord. 860-72, 10/13/1972; and by Ord. 878-73, 12/12/1973)

§24-202. Collection by Tax Collector.

Such tax shall be collected by the duly elected or appointed Tax Collector of the Borough of Gettysburg in the same manner and at the same time as other Borough taxes are collected, as provided by the Local Tax Enabling Act of 1965, as amended and supplemented.

(Ord. 6812-B, 1/2/1968, §2)

§24-203. Tax Collector's Bond.

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

(Ord. 6812-B, 1/2/1968, §3)

§24-204. Duplicate Constitutes Tax Collector's Warrant for Collection.

The entry of the per capita tax in the tax duplicate and the issuance of such duplicate to the Tax Collector shall constitute his warrant for the collection of the per capita tax hereby levied and assessed.

(Ord. 6812-B, 1/2/1968, §4)

§24-205. Payment of Tax Collector's Expenses and Compensation.

The expense of collection and compensation of the Tax Collector shall be paid and allowed as provided in the Local Tax Enabling Act of 1965, as amended and supplemented.

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ed, which compensation shall be the same as shall be fixed from time to time for the collection of other Borough taxes.

(Ord. 6812-B, 1/2/1968, §5)

§24-206. Notice to Taxpayers.

The Tax Collector shall give notice to the taxpayers of the amount of per capita tax due under this Part 2, at the same time and in the same manner as provided by the Local Tax Enabling Act of 1965, as amended and supplemented.

(Ord. 6812-B, 1/2/1968, §6)

§24-207. Addition of Names to Duplicate.

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

(Ord. 6812-B, 1/2/1968, §7; as amended by Ord. 860-72, 10/11/1972)

§24-208. Authority of Tax Collector.

The Tax Collector shall give notice to the taxpayers, shall have the power to collect said taxes by distress, shall have the power and authority to demand and receive said tax from the employer of any person owing any per capita tax, shall remit such taxes to the Borough Treasurer by separate statement at the same time as other taxes are remitted to the Borough, shall allow discounts and add penalties, shall generally be subject to all the duties and shall have all the rights and authority conferred upon him by the Local Enabling Act of 1965, as amended and supplemented. It is hereby declared to be the intent of the Borough Council, in enacting this Part 2, to confer upon the Tax Collector, in the collection of this per capita tax, all the powers, together with all the duties and obligations to the same extent and as fully provided for in the Local Tax Enabling Act of 1965, as amended and supplemented.

(Ord. 6812-B, 1/2/1968, §8; as amended by Ord. 1028-85, 8/12/1985)

PART 3

AMUSEMENT DEVICE TAX

§24-301. Definitions.

1. Unless otherwise herein expressly stated, the following terms shall have, for the purpose of this Part 3, the meanings hereby respectively indicated:

AMUSEMENT DEVICE — any machine or device, which, upon the insertion of a coin, slug, token or similar object, may be operated for use as a game, or for entertainment or amusement, whether or not registering a score and whether or not a prize is offered. The term shall not include vending machines in which gaming, entertainment or amusement features are not incorporated nor coin operated mechanical musical devices commonly known as “juke boxes”.

DEVICE — any amusement device for the use of which for profit a tax is levied under this ordinance.

PERSON — any natural person, association, co-partnership, firm or corporation.

2. In this Part 3 the singular shall include the plural and the masculine shall include the feminine and the neuter.

(Ord. 1005-83, 4/11/1983, §1)

§24-302. Tax Imposed.

There is hereby imposed a tax, for general Borough purposes, under the authority of the Local Tax Enabling Act, upon the privilege of using for profit, within the Borough of Gettysburg, any amusement device, as herein defined. Such tax shall be payable by the person owning and/or operating the establishment in which the device is installed or placed for use or play and shall be at the rate of \$50 for each 12 month period beginning July 1 of each year and ending June 30 of each succeeding year that the device is located for use or play in that establishment.

(Ord. 1005-83, 4/11/1983, §2)

§24-303. Payment Procedures.

The tax imposed under this Part 3 shall be payable to the Borough of Gettysburg on or before the first day of each 12 month period for which the tax is imposed. No deduction or refund of any tax payable under this Part 3 shall be granted in the case of any tax paid for less than the said full 12 month period, or in case of any device destroyed, stolen, sold, or removed, transferred or otherwise disposed of within any such 12 month

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period after the payment of such tax. In the event that during any such 12 month period a device is, or devices are, installed or placed for use or play in an establishment for which no current Amusement Device Tax Certificate has been issued (as hereinafter provided), or in the event a person holding a current Amusement Device Tax Certificate (as hereinafter provided) desires, during such 12 month period, to increase the number of devices installed or placed for use or play in such person's establishment, such person shall pay the tax or additional tax imposed hereby prior to the use or operation thereof and obtain an Amusement Device Tax Certificate, or a Supplemental Certificate, as the case may be, from the Code Enforcement Officer; provided, however that in case a device is substituted for another device, the use of both of which is taxable under this Part 3, no additional tax shall be paid, so long as the total number of devices in use upon the premises remains no greater than that for which such tax was paid.

(Ord. 1005-83, 4/11/1983, §3)

§24-304. Information Required; Code Enforcement Officer to Issue; Regulations.

1. The Code Enforcement Officer of the Borough shall procure, at the expense of the Borough, a sufficient number of Amusement Device Tax Certificate forms, upon each of which the following information shall be printed or inserted in ink or by typewriter prior to the issuance thereof:
 - A. The name of the Borough;
 - B. The number of the Certificate;
 - C. The name and address of the establishment where the device or devices are installed and for which it is issued;
 - D. The name and address of the person paying the tax;
 - E. The period for which the tax is being paid;
 - F. The date on which the tax is being paid;
 - G. The type or types of device or devices for which the tax is being paid;
 - H. The number of devices in the establishment for which the tax is being paid;
 - I. The amount of tax paid;
 - J. Whether it is a Supplemental Certificate.
2. Upon payment of any tax that shall be required to be paid under this Part 3, the Code Enforcement Officer shall prepare in duplicate a Certificate or a Supplemental Certificate as herein prescribed. The original of such Certificate shall be signed by him and issued to the person paying such tax and the duplicate shall be kept on file by the Code Enforcement Officer. No person owning and/or operating an establishment in which an amusement device or devices are installed or placed shall permit the use or play thereof until such person has paid the tax hereby imposed and has been issued an Amusement Device Tax Certificate for such establishment and no such person shall permit the use or play more amusement devices in such person's establishment than the number for which the tax hereby imposed has been paid until the additional tax imposed has been paid and a Supplemental Certificate for such establishment has been issued.

3. In case of the loss, defacement or destruction of any Certificate or Supplemental Certificate, the person to whom such Certificate was issued shall apply to the Code Enforcement Officer who shall issue a new Certificate or Supplemental Certificate in replacement thereof upon payment of a fee of \$5.
4. The current Amusement Device Tax Certificate and all Supplemental Certificates issued to any person shall be posted in a conspicuous place in the establishment named thereon.
5. In case of the removal of any establishment for which an Amusement Device Tax Certificate has been issued under this Part to another location in the Borough, or in case of a change in the identity of the person operating or owning any such establishment, the person operating such establishment shall report such fact within 5 days of such change and, upon payment of a fee of \$5, the Code Enforcement Officer shall amend the Certificate, all Supplemental Certificates and Duplicate Certificates to reflect that change.

(Ord. 1005-83, 4/11/1983, §4)

§24-305. Penalty for Late Payment.

If any tax levied in pursuance of this Part shall not be paid when due, a penalty of 10% of the amount of tax due and unpaid shall be added thereto.

(Ord. 1005-83, 4/11/1983, §5)

§24-306. Information Confidential.

Any information gained by the Code Enforcement Officer or any other official or agent of the Borough as a result of any duties, investigations or verifications required or authorized by this Part 3 shall be confidential, except for official purposes, and except in accordance with proper judicial order, or as otherwise provided by law. Any disclosure of any information, contrary to the provisions of this section, shall constitute a violation of this Part 3.

(Ord. 1005-83, 4/11/1983, §6)

§24-307. Recovery of Unpaid Taxes.

All taxes imposed by this Part 3, together with all penalties, interest and costs, shall be recoverable by the Code Enforcement Officer pursuant to law.

(Ord. 1005-83, 4/11/1983, §7)

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§24-308. Moneys to be Paid to Borough Treasury.

All taxes, interest and penalties collected or recovered by the Code Enforcement Officer or any other Borough official under this Part 8 shall be paid into the Borough Treasury as general revenue to be used for general purposes.

(Ord. 1005-83, 4/11/1983, §8)

§24-309. Expenses Paid by Borough.

All expenses incurred in the administration of this Part 3 shall be paid by the Borough.

(Ord. 1005-83, 4/11/1983, §9)

§24-310. Penalties.

Any person who shall be convicted for violating or failing to comply with or carry out any of the provisions or requirements of this Part 3, or of neglecting, failing or refusing to furnish complete and correct information to the Code Enforcement Officer or to obtain an Amusement Device Tax Certificate or a Supplemental Amusement Device Tax Certificate required hereby, or to pay over any tax levied by this Part 3 at the time required, or of doing or attempting to do anything whatever to avoid the payment of the whole or any part of the tax imposed under this Part, shall be liable to pay a fine or penalty not exceeding \$300 for each and every offense, and/or to imprisonment in the county jail for not more than 90 days; provided, that such fine or penalty shall be in addition to any other penalty imposed by any other section of this Part 3, and provided further, that each day's continuance thereof shall be deemed to be a separate offense punishable as such.

(Ord. 1005-83, 4/11/1983, §10; as amended by Ord. 1028-85, 8/12/1985)

§24-311. Effective Date.

This Part 3 shall go into effect on the first day of July 1983.

(Ord. 1005-83, 4/11/1983, §11)

PART 4

REALTY TRANSFER TAX

§24-401. Title.

This Part shall be known as the “Realty Transfer Tax Ordinance” of the Borough of Gettysburg.

(Ord. 1055-87, 3/9/1987; §1)

§24-402. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Borough of Gettysburg, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place, as authorized by Article XI-D, “Local Real Estate Transfer Tax,” 72 P.S. § 8101 et seq.

(Ord. 1055-87, 3/9/1987; §2)

§24-403. Definitions.

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

BOROUGH — the Borough of Gettysburg.

CORPORATION — a corporation, joint-stock association, business trust or banking institution which is organized under the laws of this Commonwealth, the United States or any other state, territory, foreign country or dependency.

DOCUMENT — any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title of real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement, “Document” shall also include a declaration of acquisition required to be presented for recording under No. 2

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FAMILY FARM CORPORATION — a corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business of agriculture shall not be deemed to include:

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

MEMBERS OF THE SAME FAMILY — any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half-blood or legal adoption shall be treated as if they were related by the whole blood.

PERSON — every natural person, association, or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

REAL ESTATE –

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

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

- A. Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or
- B. Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

TITLE TO REAL ESTATE –

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

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

VALUE –

- A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against real estate; provided that, where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;
- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of any acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations;

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- C. In the case of an easement or other interest in real estate, the value of which is not determinable under clause (A) and (B), the actual monetary worth of such interest; or
- D. The actual consideration for or actual monetary worth of any executory agreement for the construction for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Ord. 1055-87, 3/9/1987; §3)

§24-404. Imposition of Tax: Interest.

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the 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.
2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder of deeds whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
3. It is the intent of this Part that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the Borough of Gettysburg under the authority of the Act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be 1/2 of the rate, and such 1/2 shall become effective without any action on the part of the Borough Council; provided, however, that the Borough of Gettysburg and any other political subdivision which imposes such tax on the same person or transfer may agree that, instead of limiting their respective rates to 1/2 of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.
4. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due, shall be added and collected.

(Ord. 1055-87, 3/9/1987; §4)

§24-405. Exempt Parties.

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

(Ord. 1055-87, 3/9/1987; §5)

§24-406. Excluded Transaction.

The tax imposed by §24-404 shall not be imposed upon:

- A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed or confirmation in connecting body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided said reconveyance is made within 1 year from the date of condemnation.
- B. A document which the Borough is prohibited from taxing under the Constitution or statutes of the United States.
- C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.
- D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- E. A transfer or division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by co-tenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
- F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.

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- G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- I. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- J. A transfer for no or nominal actual consideration from trustee to successor trustee.
- K. A transfer for no or nominal actual consideration between principal and agent or straw party or from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.
- L. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.
- M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.
- N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
- O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating,

compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and the agency or authority has the full ownership interest in the real estate transferred.

- P. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- R. A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, (68 Stat. 3, 26 U.S.C. §501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
- S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
- T. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
- U. A transaction wherein the tax is \$1 or less.
- V. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the Statement of Value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the Statement of Value may be limited to an explanation of the reason such document is not subject to tax under this Part.

(Ord. 1055-87, 3/9/1987; §6)

§24-407. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in §24-406, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the

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purposes of this section, corporations and associations are entities separate from their members, partners, stockholders and shareholders.

(Ord. 1055-87, 3/9/1987, §7)

§24-408. Acquired Company.

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company and, of itself or together with prior changes, has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three years.
2. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.
3. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

(Ord. 1055-87, 3/9/1987, §8)

§24-409. Credits Against Tax.

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

4. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of the tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
5. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount of the tax due, no refund or carryover credit shall be allowed.

(Ord. 1055-87, 3/9/1987, §9)

§24-410. Extension of Lease.

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

(Ord. 1055-87, 3/9/1987, §10)

§24-411. Proceeds of Judicial Sale.

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

(Ord. 1055-87, 3/9/1987, §11)

§24-412. Duties of Recorder of Deeds.

1. As provided in 16 P.S. §11011-6, as amended by Act of July 7, 1983, (P.L. 40, No. 21), the recorder of deeds shall be the collection agent for the local realty transfer tax, including any amount payable to the Borough of Gettysburg based on a re-determination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Borough of Gettysburg.
2. In order to ascertain the amount of the taxes due when the property is located in more than one political subdivision, the recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

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3. On or before the tenth of each month, the recorder shall pay over to the Borough of Gettysburg all local realty transfer taxes with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2% commission shall be paid to the county.
4. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the recorder shall rerecord the deed or record the additional realty transfer tax form only when both the state and local amounts and a rerecording or recording fee has been tendered.

(Ord. 1055-87, 3/9/1987, §12)

§24-413. Statement of Value.

Every document lodged with or presented to the recorder of deeds for recording, shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part.

(Ord. 1055-87, 3/9/1987, §13)

§24-414. Civil Penalties.

1. If any part of any underpayment of taxes imposed by this Part is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
2. In the case of failure to record a declaration required under this Part on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

(Ord. 1055-87, 3/9/1987, §14)

§24-415. Lien.

The tax imposed by this Part shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Borough of Gettysburg, which lands, tenements, hereditaments or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this Part, said lien to begin at the time when the tax under this Part is due and payable, and continue until discharged by payment, or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Adams County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 et seq., its supplements and amendments.

(Ord. 1055-87, 3/9/1987, §15)

§24-416. Enforcement.

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

(Ord. 1055-87, 3/9/1987, §16)

§24-417. Regulations.

The Recorder of Deeds of Adams County is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §8101-C et seq., are incorporated into and made a part of this Part 4.

(Ord. 1055-87, 3/9/1987, §17)

§24-418. Severability.

If any sentence, clause, section or part of this Part 4 is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Part 4. It is hereby declared as the intent of the Borough Council that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(Ord. 1055-87, 3/9/1987, §418)

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§24-419. Effective Date.

This Part shall become effective on March 15, 1987, and shall continue in effect on a calendar-year basis without annual reenactment.

(Ord. 1055-87, 3/9/1987, §19)

§24-420. Repealer.

All ordinances and resolutions inconsistent herewith are hereby repealed.

(Ord. 1055-87, 3/9/1987, §20)

PART 5
(RESERVED)¹

§24-501. (Reserved)

¹ Editor's Note: Former Part 5, Tax Exemption, adopted by Ord. 1076-88, 10/11/1988, expired on December 31, 1990, and has been removed from the Code.

PART 6
LOCAL SERVICES TAX

§24-601. Title.

This Part shall be known and may be cited as the "Borough of Gettysburg Local Services Tax Ordinance."

(Ord. 1342-07, 12/28/2007)

§24-602. Authority.

This Part is enacted under authority of Act No. 7 of 2007 and the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, No. 511 (53 P.S. §6901 et seq.), as hereafter amended, supplemented, modified or reenacted by the General Assembly of the Commonwealth of Pennsylvania. The provisions of said Act No. 7 of 2007 and the Local Tax Enabling Act, as supplemented from time to time, are hereby incorporated herein by reference as fully as though set forth at length herein.

(Ord. 1342-07, 12/28/2007)

§24-603. Purpose.

The purpose of this Part is to provide revenue for police, fire and emergency services; road construction and maintenance; the reduction of property taxes; and for such other purposes as may be specified for such tax from time to time by the laws of the Commonwealth of Pennsylvania.

(Ord. 1342-07, 12/28/2007)

§24-604. Definitions.

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

BOROUGH — the Borough of Gettysburg, Adams County, Pennsylvania.

BOROUGH COUNCIL — the Borough Council of the Borough of Gettysburg, Adams County, Pennsylvania.

COLLECTOR — the person or firm from time to time designated by resolution of the Borough Council to collect and administer the provisions of this Part and col-

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lect the tax levied by this Part. Until changed by subsequent resolution, the collector shall be the same person or firm last designated to collect the emergency and municipal services tax for the Borough.

COMBINED RATE — the aggregate annual rate of the local services tax levied by a school district and the Borough located in whole or in part within the school district.

EARNED INCOME — "compensation," as determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and regulations in 61 Pa. Code, Part 1, Subpart B, Article V (relating to personal income tax); not including, however, wages or compensation paid to individuals on active military service. Employee business expenses are allowable deductions as determined under Article III of the Tax Reform Code of 1971. Any housing allowance provided to a member of the clergy shall not be taxable as earned income.

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

HE, HIS or HIM — shall include singular and plural number and male, female and neuter gender.

INDIVIDUAL — any person engaged in any occupation, trade or profession within the jurisdictional limits of the Borough whose total earned income and net profits within the Borough are greater than \$12,000 per calendar year.

NET PROFITS — the net income from the operation of a business, profession, or other activity (except from corporations), determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and regulations in 61 Pa. Code, Part 1, Subpart B, Article V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

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

OCCUPATION — any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the jurisdictional limits of the Borough for which compensation is charged and/or

received, whether by salary, wages, commissions, fees or net profits for services rendered.

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

TAX — the local services tax levied pursuant to this Part.

TAX YEAR — the period from January 1 until December 31 in any year; a calendar year.

YEAR — a calendar year.

(Ord. 1342-07, 12/28/2007)

§24-605. Levy of Tax.

The Borough hereby levies and imposes on every individual engaging in an occupation within the jurisdictional limits of the Borough a tax in the amount of \$52 per annum, beginning the first day of January 2008 and continuing on a calendar basis annually thereafter until modified or repealed by subsequent ordinance. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough.

(Ord. 1342-07, 12/28/2007)

§24-606. Use of Funds.

The Borough shall use the revenue derived from this tax for the following purposes; provided, however, that no less than 25% of the funds derived from this tax shall be used for emergency services, as defined herein:

- A. Emergency services, which shall include emergency medical services, police services and/or fire services.
- B. Road construction and/or maintenance.
- C. Reduction of property taxes.
- D. 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 homestead property exclusion), and in accordance with Section 22.6 of Act 7 of 2007, as amended from time to time.

(Ord. 1342-07, 12/28/2007)

§24-607. Duty of Employers.

1. Each employer within the Borough and each employer situate outside the Borough who engages in business within the Borough is hereby charged with the duty of collecting the tax from each of the employees engaged by the employer and performing work for the employer within the Borough. Each person subject to the tax shall be assessed a pro-rata share of the tax for each payroll period in which the person is engaging in an occupation.
2. The pro-rata share of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the local services tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro-rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar.
3. Employer collection of the local services tax shall be made on a payroll-period basis for each payroll period, beginning with the first payroll period in which the person is engaging in an occupation.
4. No employer shall be held liable for failure to withhold the local services tax or for the payment of the withheld tax money to the Borough 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.

(Ord. 1342-07, 12/28/2007)

§24-608. Returns.

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

(Ord. 1342-07, 12/28/2007)

§24-609. Dates for Determining Tax Liability and Payment.

Each employer shall use his employment and payroll records from the first day of January to March 31 each year for determining the number of employees from whom said tax shall be deducted and paid over to the collector on or before April 30 of the same calen-

dar year. Supplemental reports shall be made by each employer on July 30, October 30 and January 31 for new employees as reflected on his employment and payroll records from April 1 to June 30, July 1 to September 30 and October 1 to December 31; and payments on these supplemental reports shall be made on July 30, October 30, and January 30, respectively.

(Ord. 1342-07, 12/28/2007)

§24-610. Individuals Engaged in More Than One Occupation or Employed in More Than One Political Subdivision.

1. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during the payroll period, the priority of claim to collect the local services tax shall be in the following order:
 - A. The political subdivision in which a person maintains his principal office or is principally employed.
 - B. The political subdivision in which the person resides and works, if the tax is levied by that political subdivision.
 - C. The political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.
2. In the case of concurrent employment, an employer shall refrain from withholding the local services tax if the employee provides:
 - A. A recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of local services tax withheld; and
 - B. A statement from the employee that the payment 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.
3. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. It is the intent of this Section that no person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

(Ord. 1342-07, 12/28/2007)

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§24-611. Exemptions.

1. The local services 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.
2. The Local Tax Enabling Act, as amended, requires municipalities and school districts who levy the local services tax at a combined rate exceeding \$10 to exempt any person from the local services tax whose total earned income and net profits from all sources within the Borough is less than \$12,000 for the calendar year in which the local services tax is levied.
3. Each political subdivision levying the local services tax hereby exempts the following persons from the local services tax:
 - A. Any person whose total earned income and net profits from all sources within the Borough is less than \$12,000 for the calendar year in which the local services tax is levied.
 - B. Any person who 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 100% permanent disability.
 - C. 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.
4. A person seeking to claim an exemption from the local services tax must annually file an exemption certificate with the collector of the tax for the political subdivision levying the tax and file a copy of the certificate with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of less than \$12,000 in the calendar year for which the exemption certificate is filed. The exemption certificate shall have attached to it a copy of all of the employee's last pay stubs or W-2 forms from employment within the Borough for the year prior to the fiscal year for which the employee is requesting to be exempted from the local services tax.
5. Upon receipt of the exemption certificate and until otherwise instructed by the collector of the tax for the Borough, the employer shall not withhold the tax from the person during the calendar year or remainder of the calendar year for which the exemption certificate applies. With respect to a person who claimed an exemption from the local services tax, upon notification to an employer by the person or by the collector of the tax for the Borough that the person has received earned income and net profits from all sources within that Borough equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of

earned income within that Borough 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 as follows:

- A. If a person who claimed an exemption for a given calendar year from the local services tax becomes subject to the tax for the calendar year, the employer shall withhold the tax for the remainder of that calendar year.
 - B. The employer shall withhold from the person, for the first payroll period after receipt of the notification under the above subsection, a lump sum equal to the amount of the tax that was not withheld from the person due to the exemption certificate filed by the person, plus the per-payroll amount due for that first payroll period.
 - C. 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.
6. In the event the employment of a person subject to withholding of the local services tax under this exception is severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the Borough may pursue collection under this Part.
 7. Except as provided for in Subsection 5 above, employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from a local services tax.
 8. Employers shall be responsible for retaining a copy of all exemption certificates filed by employees within a given calendar year for a minimum of three years. Employers who have failed to withhold the local services tax from an employee or employees and do not have copies of the employee exemption certificate or certificates will be held responsible for the payment of the local services tax as if the tax had been originally against the employer.

(Ord. 1342-07, 12/28/2007)

§24-612. Self-Employed Individuals.

Any self-employed individual or any individual whose employer is not required to withhold local taxes (certain State and Federal agencies) who is engaged in any occupation or profession with a primary place of employment within the Borough shall be required to comply with this Part and shall pay the pro-rata portion of the tax due to the collector 30 days after the end of each quarter of a tax year. If such taxpayer qualifies for a low-income exemption, the taxpayer may complete the required exemption certificate or make application for a refund of the tax paid.

(Ord. 1342-07, 12/28/2007)

§24-613. Employees and Self-Employed Individuals Residing Beyond the Limits of the Borough.

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

(Ord. 1342-07, 12/28/2007)

§24-614. Administration of Tax.

1. It shall be the duty of the collector to accept and receive payments of this tax and keep a record thereof, showing the amount received by him from each employer or self-employed person, together with the date the tax was received. It shall be the duty of the collector to accept and keep a record of the information submitted by employers relating to the number of employees subject to the tax, the number of employees exempt from the tax, the employee exemption certificates, and refunds of the tax paid to individuals and employers. It further shall be the duty of the collector, on behalf of the Borough, to provide a taxpayer a receipt of payment upon written request of the taxpayer.
2. The collector is hereby charged with the administration and enforcement of this Part and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination of the payroll records of any employer subject to this Part; the examination and correction of any return made in compliance with this Part; and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the collector shall have the right to appeal to the Court of Common Pleas of Adams County as in other cases provided.
3. The collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the collector the means, facilities and opportunity for such examination.

(Ord. 1342-07, 12/28/2007)

§24-615. Suits for Collection.

1. In the event any of the tax under this Part remains due or unpaid 30 days after the due date set forth above, the collector may sue for the recovery of such tax due or unpaid, together with interest and penalty.
2. If, for any reason, the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of 10%, shall be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefor shall, in addition, be responsible and liable for costs of collection, including but not limited to attorneys' fees.

(Ord. 1342-07, 12/28/2007)

§24-616. Violations and Penalties.

Whoever makes any false or untrue statement on any return required by this Part, or who refuses inspection of his books, records or accounts in his custody and control in order to determine the number of employees subject to this tax who are in his employment, or who fails or refuses to file any return required by this Part, or fails or refuses to pay the tax herein levied shall, upon conviction, be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to be sentenced to a term of imprisonment not to exceed 30 days. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refused to file a return required by this Part.

(Ord. 1342-07, 12/28/2007)

§24-617. Refunds.

1. Refunds shall only be provided for amounts overpaid in a calendar year that exceed \$1.
2. Refunds due to duplication of payment. If, at any time during the calendar year, a taxpayer pays more than \$52 in combined local services tax, the taxpayer may apply for a refund of the amount of overpayment. The proper refund request form must be completed and signed by the taxpayer, and necessary documentation must be included. These refunds may be processed at the time they are received, unless there is reason to believe the tax will not be received from the employer.
3. When an individual's earned income and net profits only for the calendar year is less than the \$12,000 exemption, at the end of the calendar year, any taxpayer who qualifies may complete a refund application and include a copy of the necessary documentation.

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(Ord. 1342-07, 12/28/2007)

§24-618. Repealer; Effect on Prior Taxes.

Ordinance No. 1298-04, which, upon its enactment, imposed, levied and assessed a tax for emergency and municipal services upon persons engaged in an occupation within the Borough of Gettysburg, is hereby repealed effective January 1, 2008, it being the express intention of the Borough to substitute in the place and stead of the emergency and municipal services tax the tax provided for in this Part. Nothing herein shall be construed, however, to repeal or preclude the imposition and collection of the occupational privilege tax, with any applicable penalties and interest, for all prior calendar years or of the emergency and municipal services tax, plus all applicable penalties and interest, for all prior calendar years as each tax existed prior to the effective date of this Part. All other ordinances and parts of ordinances inconsistent herewith are hereby repealed.

(Ord. 1342-07, 12/28/2007)

§24-619. Severability.

The provisions of this Part shall be severable. If any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, that decision shall not affect the remaining provisions of this Part or of the Borough Code of Ordinances.

(Ord. 1342-07, 12/28/2007)

§24-620. Effective Date.

This Part shall become effective in accordance with applicable law, with the repeal of the previous emergency and municipal services tax ordinances, effective January 1, 2008.

(Ord. 1342-07, 12/28/2007)

PART 7

NEIGHBORHOOD IMPROVEMENT DISTRICTS

A. Steinwehr Avenue Heart of Gettysburg Battlefield Neighborhood Improvement District**§24-701. Legislative Findings.**

The Borough Council of the Borough of Gettysburg finds that business property owners in the Steinwehr Avenue area of the Borough of Gettysburg desire to strengthen and revitalize the physical and economic foundations of that area for the benefit of business and property owners to enable that area to prosper as a destination for residents and tourists. Furthermore, the Commonwealth of Pennsylvania has adopted enabling legislation, specifically the Neighborhood Improvement District Act, Act No. 2000-130, 73 P.S. § 831 et seq., authorizing the creation of Neighborhood Improvement Districts to enable property owners in neighborhoods to provide services to their neighborhoods that supplement municipal services otherwise provided. The legislation provides for the assessment of property owners within the Neighborhood Improvement District to pay for those additional services, and the Borough Council of the Borough of Gettysburg believes that such a district is necessary and desirable to strengthen the Steinwehr Avenue area and improve the probability of success of businesses and the preservation of the amenities of life for residents and commercial occupants within the Neighborhood Improvement District.

(Ord. 1371-09, 12/14/2009, §1)

§24-702. District Established.

As authorized by Act 2000-130, 73 P.S. § 831 et seq., known as the Neighborhood Improvement District Act (hereinafter the "Act"), the Steinwehr Avenue Heart of Gettysburg Battlefield Neighborhood Improvement District (hereinafter the "District") is established with boundaries as depicted on Exhibit "A" which is attached hereto and is made a part hereof.² The District is centered around Steinwehr Avenue, which extends from its origin at its intersection with Baltimore Street until its terminus at the boundary of Gettysburg Borough; Taneytown Road from its intersection with Steinwehr Avenue until its terminus at the Gettysburg National Military Park property; a portion of Washington Street from its intersection with Steinwehr Avenue and extending north approximately three blocks to include the Gettysburg Hospital and the WellSpan medical offices and facilities.

(Ord. 1371-09, 12/14/2009, §2)

² Editors' Note: Exhibit "A" is included at the end of this Chapter.

§24-703. Management.

The Steinwehr Avenue Heart of Gettysburg Battlefield, Inc. (hereinafter "SAHGB"), a nonprofit corporation, is appointed administrator of the District. SAHGB shall designate a District Administrative Board. The Administrative Board shall consist of an odd number of members between five and nine with at least one member representing the Borough of Gettysburg, and shall include at least one District property owner or designee; at least one District business owner or designee; and one representative of Well-Span/Gettysburg Hospital. The Administrative Board shall be authorized to exercise all powers provided for in Section 7 of Act 130, 74 P.S. § 837.

(Ord. 1371-09, 12/14/2009, §3)

§24-704. Levy of Special Assessment.

In accordance with the provisions of Section 4(10) of Act 130, 73 P.S. § 734(10), an assessment fee is hereby imposed on all properties located within the boundaries of the District.

- A. Amount and Method of Assessment. The assessment shall be made as of January 1, 2010, and shall be as follows:
 - (1) Commercial properties shall be assessed annually at the rate of 1.9476 mills for each dollar of assessed value.
 - (2) Residential properties shall be excluded from the payment of the assessment.
 - (3) Tax exempt properties shall be excluded from the payment of the assessment, provided such properties are carried as tax exempt in the assessment records for the County of Adams, Pennsylvania.
- B. Payment of Assessment. Payment of the assessment shall be due 60 days following the date of mailing of the notice of assessment. Installment payments may be made in the following manner:
 - (1) Forty percent of the total assessment to be paid within 60 days of the date of mailing of the notice of assessment.
 - (2) The remaining 60% of the total assessment may be paid within 150 days of the date of mailing of the notice of assessment. However, any installment payments made after 60 days from the date of the mailing of the notice of assessment shall incur interest at the rate of 6% per annum on the unpaid balance.
- C. Liens. Assessments shall constitute liens and encumbrances upon the assessed property and shall be collectible in accordance with Section 7(d) of

Act 130, 73 P.S. § 837(d), and in general may be collected in the same manner as municipal tax claims, notwithstanding the provision of this Section as to installment payments.

(Ord. 1371-09, 12/14/2009, §4; as amended by Ord. 1387-10, 12/22/2010)

§24-705. Collection of Assessments.

SAHGB, functioning as the Neighborhood Improvement District Management Association, is designated as the collector for the special assessment provided for herein and shall be solely responsible for all accounting services related to billing, collection, and placement of liens for nonpayment concerning all special assessment fees associated with the District.

(Ord. 1371-09, 12/14/2009, §5)

§24-706. Sunset Provisions.

1. The District established herein shall automatically terminate on December 31, 2014, unless continued or extended by subsequent action of the Borough Council of the Borough of Gettysburg in accordance with the provisions of Act 130, 73 P.S. § 831 et seq.
2. In the event of termination, all property of the District shall pass to the Borough of Gettysburg and the District shall cease to exist.

(Ord. 1371-09, 12/14/2009, §6)

PART 8

EARNED INCOME AND NET PROFITS TAX

§24-801. Short Title.

This Part 8 shall be known as the "Borough of Gettysburg Earned Income and Net Profits Tax Ordinance," referred to herein as "Part 8."

(Ord. 1393-11, 11/14/2011)

§24-802. Intent and Applicable Rules.

1. It is the intent and purpose of this Part 8 to include all of the applicable language and provisions of 53 P.S. §6924.501 et seq., the Act of General Assembly of July 2, 2008 (P.L. 197), and known as "Act No. 32," as may be amended and supplemented from time to time. In all enforcement of the administration of this Part 8, the language and intent of the Act, as amended, shall take precedence.
2. The tax imposed by this Part 8 shall be collected and administered in accordance with all applicable laws and regulations and regulations, policies and procedures adopted by the Tax Collection Committee or tax officer. This includes any regulations, policies and procedures adopted in the future to the maximum extent allowed by 1 Pa.C.S.A. §1937.

(Ord. 1393-11, 11/14/2011)

§24-803. Definition.

All words and phrases shall have the meanings as set forth in Act 32, as amended. The following words and phrases, when used in this Part 8, shall have the meanings ascribed to them as follows:

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

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

CORPORATION — a corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state,

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territory, foreign country or dependency. This term shall include an entity which is classified as a corporation for federal income tax purposes.

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

DEPARTMENT — the Pennsylvania Department of Community and Economic Development or successor agency charged with any duties under the Act, as may be amended and supplemented.

DOMICILE — the place where a person or individual lives and has his or her permanent home and to which he or she has the intention of returning whenever he or she 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 person has voluntarily fixed the habitation of himself or herself and his or her 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 or her 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 — the compensation as required to be reported to or as determined by the Pennsylvania Department of Revenue under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and rules and regulations promulgated under that section. For purposes of earned income, employee business expenses are allowable deductions as determined under Article III of the Tax Reform Code of 1971. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

EARNED INCOME AND NET PROFITS TAX — the tax levied herein by the Borough of Gettysburg on earned income and net profits; also referred to as the "tax" in this Part 8.

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

MUNICIPALITY — a city of the second class, city of the second class A, city of the third class, borough, town, township of the first class or township of the second class. For purposes of this Part 8, such term shall mean the Borough of Gettysburg, Adams County, Pennsylvania.

NET PROFITS — the net income from the operation of a business, except corporations as required to be reported to or as determined by the Department of Revenue under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and the rules and regulations promulgated under

such section. The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. Further, the term shall not include:

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

NONRESIDENT — a person, partnership, association or other entity domiciled outside of the municipality.

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 municipality.

SUCCEEDING YEAR — The calendar year following the current year.

TAX BUREAU — a public nonprofit entity established by a tax collection committee for the administration and collection of earned income and net profits tax.

TAX COLLECTION COMMITTEE (herein referred to as "TCC") — the committee established to govern each tax collection district for the purpose of income tax collection. This term shall include a joint tax collection committee.

TAX COLLECTION DISTRICT (herein referred to as "TCD") — the Adams Tax Collection District as established under the Act.

TAX OFFICER — a political subdivision, public employee, tax bureau, county, excluding a county of the first class, or private agency which administers and collects earned income and net profits for one or more tax collection districts. Unless otherwise specifically provided, for purposes of the obligations of an employer, the term shall mean the tax officer or tax collector for the tax collection district within which the employer is located, or if an employer maintains workplaces in more than one tax collection district, the tax officer for each such tax collection district with respect to employees principally employed therein.

TAXPAYER — a person or business required hereunder to file a return of earned income or net profits or to pay a tax thereon.

(Ord. 1393-11, 11/14/2011)

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§24-804. Imposition of Tax.

1. A tax of 1% for general revenue purposes is hereby imposed on earned income and net profits earned by residents of the municipality.
2. A tax of 1% for general revenue purposes is hereby imposed on earned income and net profits earned by nonresidents, exclusive of domestic servants and Maryland residents.
3. The earned income and net profits tax levied under this Part 8 shall be applicable to earned income received and to net profits earned during the period beginning January 1 of the current year and ending December 31 of the current year or for taxpayer fiscal years beginning in the current year. The earned income and net profits tax shall continue in force on a calendar-year or taxpayer-fiscal-year basis without the need for annual enactment or reenactment, unless the rate of the tax is subsequently changed. For a taxpayer whose fiscal year is not a calendar year, the tax officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar-year taxpayer.

(Ord. 1393-11, 11/14/2011)

§24-805. Declaration and Payment of Tax.

1. Application.
 - A. Income taxes shall be applicable to taxable income earned or received based on the method of accounting used by the taxpayer in the period beginning January 1 of the current year and ending December 31 of the current year; except that taxes imposed for the first time and changes to existing tax rates shall become effective on January 1 or July 1, as specified in this Part 8, and the tax shall continue in force on a calendar-year or taxpayer-fiscal-year basis, without annual reenactment, unless the rate of the tax is subsequently changed.
 - B. For a taxpayer whose fiscal year is not a calendar year, the tax officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar-year taxpayer.
2. Partial Domicile. The taxable income subject to tax of a taxpayer who is domiciled in the municipality for only a portion of the tax year shall be an amount equal to the taxpayer's taxable income multiplied by a fraction, the numerator of which is the number of calendar months during the tax year that the individual is domiciled in the municipality, and the denominator of which is 12. A taxpayer shall include in the numerator any calendar month during which the taxpayer is domiciled for more than 1/2 of the calendar month. A day that a taxpayer's domicile changes shall be included as a day the individual is in the new domicile and not

the old domicile. If the number of days in the calendar month in which the individual lived in the old and new domiciles is equal, the calendar month shall be included in calculating the number of months in the new domicile.

3. Declaration and Payment. Except as provided in Subsection 1B above, taxpayers shall declare and pay income taxes as follows:
 - A. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident tax officer, a final return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the taxable income, the amount of tax paid, the amount of tax that has been withheld under §24-807 below and the balance of tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final return, the taxpayer shall pay the tax officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
 - B. Every taxpayer making net profits shall, by April 15 of the current year, make and file with the tax officer a declaration of the taxpayer's estimated net profits during the period beginning January 1 and ending December 31 of the current year and shall pay to the tax officer in four equal quarterly installments the tax due on the estimated net profits. The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.
 - C. Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the tax officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.
 - D. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the tax officer a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the net profits, and the total amount of tax paid. At the time of filing the final return, the taxpayer shall pay to the tax officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated tax, elect to make and file with the tax officer, on or before January 31 of the succeeding year, the final return.

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- E. The Department, in consultation with the Department of Revenue, shall provide by regulation for the filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration required under this subsection anticipates additional net profits not previously declared or has overestimated anticipated net profits.
- F. Every taxpayer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file a final return as required under this Part 8 and pay the tax due.
- G. Every taxpayer who receives any other taxable income not subject to withholding under Section 512(3) of the Act shall make and file with the resident tax officer a quarterly return on or before April 15 of the current year, June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, setting forth the aggregate amount of taxable income not subject to withholding by the taxpayer during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to income tax, together with such other information as the Department may require. Every taxpayer filing a return shall, at the time of filing the return, pay to the tax officer the amount of income tax due. The Department shall establish criteria under which the tax officer may waive the quarterly return and payment of the income tax and permit a taxpayer to file the receipt of taxable income on the taxpayer's annual return and pay the income tax due on or before April 15 of the succeeding year.
- H. The TCC may, by regulation, waive the requirements for a quarterly return and payment of income tax under specified circumstances, including those instances where a taxpayer's annual taxable income is less than a specified amount.

(Ord. 1393-11, 11/14/2011)

§24-806. Registration.

1. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the municipality, having imposed a tax on earned income or net profits within its municipal boundaries, who employs one or more persons, other than domestic servants, for a salary, wage commission or other compensation, who has not previously registered, shall, within 15 days after becoming an employer, register with the tax officer or other designated agent the employer's name and address and such other information as the Department or tax officer may require.
2. Every employer shall require each new employee to complete a certificate of residency form, which form shall be an addendum to the federal employee's withhold-

ing allowance certificate (Form W-4 or successor form). An employer shall also require any employee who changes an address or domicile to complete a certificate of residency form, which forms are available from the Department or the tax officer upon request. The purpose of said form shall be to help identify the political subdivision where an employee lives and works.

(Ord. 1393-11, 11/14/2011)

§24-807. Filing and Payment of Tax by Employer; Withholding.

1. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the municipality, imposing a tax on earned income or net profits within the municipality, who employs one or more persons, exclusive of domestic servants and Maryland residents, for a salary, wage, commission or other compensation, shall deduct at the time of payment thereof the greater of the employee's resident tax or the employee's nonresident tax imposed by this Part 8 on the earned income due to his, her or its 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 quarterly return and pay to the tax officer the amount of taxes deducted during the preceding quarterly 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 return, unless otherwise agreed upon between the tax officer and employer, shall show the name and social security number of each such employee, the compensation of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total compensation of all such employees during such preceding quarterly period, and the total tax deducted therefrom and paid with the return as well as any other information prescribed by the Department or the tax officer.
2. Any employer who, for two of the preceding four quarterly periods, has failed to deduct the proper tax or any part thereof or who has failed to pay over the proper amount of tax to the tax officer may be required by the tax officer to file a return and pay the tax monthly. In such cases, payments of tax shall be made to the tax officer on or before the last day of the month succeeding the month for which the tax was withheld.
3. Notwithstanding the provisions of Subsection 1 above, the provisions of this Subsection 3 shall apply if any employer has more than one place of employment in more than one tax collection district. Within 30 days following the last day of each month, the employer may file the return required by Subsection 1 above and pay the total amount of tax due from employees in all work locations during the preceding month to the tax officer for either the tax collection district in which the employer's payroll operations are located or as determined by the Department. The return and tax deducted shall be filed and paid electronically. The employer must file a notice of intention to file combined returns and make combined payments with the tax officer for each place of employment at least one month prior

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to filing its first combined return or making its first combined payment. This subsection shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.

4. On or before February 28 of the succeeding year, every employer shall file with the tax officer, or other designated tax officer to whom tax which has been deducted, has been remitted as required herein:
 - A. An annual return showing the total amount of compensation paid, the total amount of tax deducted, the total amount of tax paid to the tax officer for the period beginning January 1 of the current year and ending December 31 of the current year, and any other information prescribed by the Department.
 - B. An individual withholding statement, which may be integrated with the federal wage and tax statement (Form W-2 or successor form), for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the employee's name, address and social security number, the amount of compensation paid to the employee during said period, the amount of tax deducted, the numerical code prescribed by the Department representing the tax collection district where payments required herein were remitted, and any other information required by the Department or the tax officer, and the amount of tax paid to the tax officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.
5. 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 hereinabove required and pay the tax due.
6. Except as otherwise provided for in Section 511 of the Act, 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 the employer is required to withhold to the extent that such taxes have not been recovered from the employee. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of this Part 8 relating to the filing of declarations and returns.
7. No employer shall be required to deduct or withhold taxes, file returns or pay taxes with regard to residents of Maryland.

(Ord. 1393-11, 11/14/2011)

§24-808. Powers and Duties of Tax Officer.

1. It shall be the duty of the tax officer to collect and receive the taxes, fines and penalties imposed by this Part 8. It shall also be the tax officer's duty to keep a record showing the amount of tax received from each taxpayer paying the tax and the date of such receipt.
2. Each tax officer, before entering upon official duties, shall give and acknowledge a bond to the TCC appointing such tax officer. The bond provided shall be subject to and consistent with the requirements as set forth in the Act.
3. The tax officer shall comply with all resolutions, policies and procedures adopted by the TCC and shall comply with all regulations promulgated and adopted by the Department under the Act.
4. The tax 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.
5. The tax officer and agents designated by the tax officer are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the tax 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. Said document shall be made available to the tax officer or agents by the respective employers, taxpayers and persons subject to such examination. Such examination or audits shall be conducted by the tax officer and any agents in accordance with 53 Pa.C.S.A., Chapter 84, Subchapter C (relating to the local taxpayers bill of rights).
6. Any information gained by the tax officer or designated 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 Part 8 shall be and remain confidential, except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.
7. The tax officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year, provided that any filing, reporting or payment dates shall provide time periods equivalent to those time periods set forth for taxpayers whose fiscal year coincides with a calendar year.

(Ord. 1393-11, 11/14/2011)

§24-809. Suit for Collection of Tax.

1. The tax officer may sue in the name of the municipality within the TCD for the recovery of taxes due and unpaid under this Part 8.

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2. Any suit brought to recover the tax imposed by this Part 8 shall be begun within three years after: (a) such tax is due; or (b) the declaration or return has been filed; or (c) a redetermination of compensation or net profits by the Pennsylvania Department of Revenue, 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:
 - A. 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 Part 8, there shall be no limitation.
 - B. 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 tax officer reveals a fraudulent evasion of taxes, there shall be no limitation.
 - C. Where any person has deducted taxes under the provisions of this Part 8 and has failed to pay the amounts so deducted to the tax officer or where any person has willfully failed or omitted to make the deductions required by this Part 8, there shall be no limitation.
 - D. Where an employer has intentionally failed to make deductions required by this Part 8.
 - E. In the case of substantial understatement of tax liability of 25% or more and no fraud, suit shall be begun within six years.
3. The tax officer may sue for recovery of an erroneous refund, provided that such suit is begun two years after making such refund, except that the suit may be brought within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.
4. This section shall not be construed to limit the municipality from recovering delinquent taxes by any other means provided by the Act. Further, nothing set forth herein shall be construed to limit a tax officer, a tax collection district or a political subdivision from recovering delinquent taxes by any other means provided by the Act.”

(Ord. 1393-11, 11/14/2011)

§24-810. Interest and Penalties.

1. Except as may be provided for in Subsection 2 below, in the event that any tax imposed in this Part 8 is not paid when due, interest shall accrue at the same rate a taxpayer is required to pay to the commonwealth as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176), known as the “Fiscal Code,” or such successor legislation, on the amount of said tax; and an additional penalty of 1% of

the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected; but the amount of penalty shall not exceed 15% in the aggregate. Where an action is brought for the recovery of tax, the taxpayer liable for the tax shall, in addition, be liable for the costs of collection, interest and penalties, including but not limited to court costs and attorney's fees.

2. Pursuant to the Act, the Department may establish conditions under which a tax officer, with the concurrence of the TCC, may abate interest or penalties that would otherwise be imposed for the nonreporting or underreporting of income tax liabilities or for nonpayment of taxes previously imposed and due if the taxpayer files delinquent returns and pays the tax in full.
3. The provisions of Subsection 2 above shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under this Part 8, or prevent the commencement of further prosecution of any proceedings by the appropriate authorities for violations of this Part 8. However, no proceedings shall be commenced on the basis of delinquent returns filed pursuant to Subsection 2 above if the returns are determined to be substantially true and correct and the tax due is paid within the prescribed time.

(Ord. 1393-11, 11/14/2011)

§24-811. Violations and Penalties.

1. Any person who fails, neglects or refuses to make any declaration or return required by this Part 8, any employer who fails, neglects or refuses to register or to pay the tax deducted from employees or fails, neglects or refuses to deduct or withhold the tax from employees, any person who refuses to permit the tax officer or any agent so designated to examine books, records, or 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 net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part 8 shall, upon conviction thereof, be sentenced to pay a fine of not more than \$2,500 for each offense, and costs, and in default of payment of said fine and costs, to be imprisoned for a period not exceeding six months.
2. Any employer who is required under this Part 8 to collect, account for and distribute taxes and who willfully fails to collect or truthfully account for and distribute such tax commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding \$25,000 or to imprisonment not exceeding two years, or both.
3. Any person who divulges any information which is confidential under the provisions of this Part 8 shall, upon conviction thereof, be sentenced to pay a fine of not more than \$2,500 for each offense, and costs, or to imprisonment for not more than one year, or both.

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4. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Part 8.
5. The failure of any person to receive or procure forms required for making the declaration or returns required by this Part 8 shall not excuse him or her from making such declaration or return.
6. The Borough of Gettysburg shall approve, by adoption of a resolution of the Borough Council, a cost of collection schedule to be imposed by the designated tax officer for the collection of taxes on earned income and net profits upon any taxpayer whose taxes are or become delinquent and/or remain due and unpaid. Said cost of collection schedule may be modified from time to time by resolution of the Borough Council upon submission of amendments to said collection schedule adopted by the TCC. The designated tax officer is hereby authorized to retain such costs of collection as set forth in the collection schedule in recovering delinquent taxes and as permitted to be assessed to delinquent taxpayers pursuant to law.

(Ord. 1393-11, 11/14/2011)

§24-812. Applicability.

This Part 8 shall not apply to any person or property as to whom or which it is beyond the legal power of the municipality to levy, assess and impose the tax or duties as herein provided.

(Ord. 1393-11, 11/14/2011)

§24-813. Severability.

The provisions of this Part 8 shall be severable. If any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, that decision shall not affect the remaining provisions of this Part 8 or of the Borough Code of Ordinances. It is hereby declared to be the intention of the Borough Council of the Borough of Gettysburg that this Part 8 would have been adopted if such invalid or unconstitutional provision had not been included.

(Ord. 1393-11, 11/14/2011)

§24-814. Purpose; Effect on Prior Provisions.

1. The primary purpose of this Part 8 is to conform the local income tax currently levied on earned income and net profits by the Borough of Gettysburg with the Act and to do so within the time frame set forth in the Act.

2. Any prior ordinance or resolution, and particularly the resolution adopted on April 10, 1978, and then readopted on June 12, 1978, levying such tax is hereby amended and restated in its entirety to read as set forth in this Part 8. To the extent that any previous ordinance or resolution, or any portion thereof, is inconsistent or conflicts with this Part, such ordinance or resolution, or any portion thereof, shall be repealed to the extent of such inconsistency and/or conflict. To the extent of the same or any prior ordinance or resolution levying such tax in force immediately prior to enactment of this Part 8, this Part is intended as a continuation of such prior ordinance or resolution and not as the enactment of an ordinance imposing a new tax, except as to the tax imposed on nonresidents herein, which is intended as a new tax. It is the express intention of the Borough of Gettysburg to substitute the tax provided for in this Part 8 in the place and stead of the earned income and net profits tax imposed by prior ordinance or resolution and particularly the said resolution adopted on April 10, 1978, and then readopted on June 12, 1978. All other ordinances or resolutions and parts of ordinances or resolutions inconsistent herewith are hereby repealed. In the event that this Part 8 or any portion thereof is determined to be unconstitutional or otherwise invalid, the prior ordinance or resolution, or portion thereof, levying a similar tax shall remain in full force and effect and shall not be affected by the adoption of this Part. Nothing contained herein shall affect, impair or otherwise abrogate any act done or liability incurred, nor shall any provisions of this Part 8 affect, impair or preclude any suit or prosecution pending, whether or not currently initiated, to enforce any right, penalty or violation under the authority of any previous ordinance or resolution in force prior to adoption of this Part.

(Ord. 1393-11, 11/14/2011)

§24-815. Effective Date; Initial Current Year.

The effective date of this Part 8 and beginning of the initial current year shall be January 1, 2012.

(Ord. 1393-11, 11/14/2011)