

No. 2008-32

## AN ACT

SB 1063

Amending the act of December 31, 1965 (P.L.1257, No.511), entitled "An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class including independent school districts, to levy, assess, collect or to provide for the levying, assessment and collection of certain taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers, agencies and employes to assess and collect such taxes; providing for joint collection of certain taxes, prescribing certain definitions and other provisions for taxes levied and assessed upon earned income, providing for annual audits and for collection of delinquent taxes, and permitting and requiring penalties to be imposed and enforced, including penalties for disclosure of confidential information, providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court," in local tax, further providing for definitions, for delegation of tax powers and restrictions, for recapture of tax, for payroll tax, for nonresident sports facility usage fees, for vacation of tax ordinances and resolutions, for advertising tax ordinances, for second class city tax rates, for taxpayer appeals, for filing ordinances, for limitation on tax rates, for withholding of local services taxes, for administrative personnel and joint agreements, for audits of earned income and other taxes, for payment of tax to other taxing authorities as credits or deductions, for personal property, for assessment limitations and for tax limitations; providing for legal representation, for restricted use, for consolidated collection of local income taxes, for collection of delinquent taxes and for miscellaneous provisions; further providing for penalties and for repeals; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, is amended by adding a chapter heading to read:

**CHAPTER 1**  
**PRELIMINARY PROVISIONS**

Section 2. Section 1 of the act is renumbered to read:

Section [1] *101*. Short Title.—This act shall be known and may be cited as "The Local Tax Enabling Act."

Section 3. The act is amended by adding a chapter heading to read:

**CHAPTER 3**  
**LOCAL TAXES**

Section 3.1. The act is amended by adding a section to read:

**Section 301. Definitions.**—(a) *The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:*

**“Family farm corporation”** means a Pennsylvania corporation at least seventy-five percent of the assets of which are devoted to the business of agriculture, which business, for the purposes of this definition, shall not be deemed to include:

- (i) recreational activities, such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
- (ii) 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;
- (iii) fur farming;
- (iv) stockyard and slaughterhouse operations; or
- (v) manufacturing or processing operations of any kind: *Provided, however, That at least seventy-five percent of all of the stock of the corporation must be owned by members of the same family.*

**“Members of the same family”** means an individual, such individual’s brothers and sisters, the brothers and sisters of such individual’s parents and grandparents, the ancestors and lineal descendents of any of the foregoing and a spouse of any of the foregoing. Individuals related by the half blood or by legal adoption shall be treated as if they were related by the whole blood.

(b) *As used in this chapter, the terms “business entity,” “earned income,” “employer,” “net profits,” “private agency,” “public agency” and “tax bureau” shall have the same meanings as those terms given in section 501.*

Section 4. Section 2 of the act, amended June 21, 2007 (P.L.13, No.7), is renumbered and amended to read:

Section [2] **301.1. Delegation of Taxing Powers and Restrictions Thereon.**—(a) The duly constituted authorities of the following political subdivisions, cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class, and school districts of the fourth class, in all cases including independent school districts may, in their discretion, by ordinance or resolution, for general revenue purposes, levy, assess and collect or provide for the levying, assessment and collection of such taxes as they shall determine on persons, transactions, occupations, privileges, subjects and personal property within the limits of such political subdivisions, and upon the transfer of real property, or of any interest in real property, situate within the political subdivision levying and assessing the tax, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfer take place. The taxing authority

may provide that the transferee shall remain liable for any unpaid realty transfer taxes imposed by virtue of this [act] *chapter*.

(b) Each local taxing authority may, by ordinance or resolution, exempt any person whose total income from all sources is less than twelve thousand dollars (\$12,000) per annum from the per capita or similar head tax, occupation tax or earned income tax, or any portion thereof, and may adopt regulations for the processing of claims for exemptions.

(c) (1) Each political subdivision levying the local services tax shall exempt the following persons from the local services tax:

(i) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent permanent disability.

(ii) 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.

(2) For purposes of this subsection, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

(d) Each political subdivision levying the local services tax at a rate exceeding ten dollars (\$10) shall, and each political subdivision levying the local services tax at a rate of ten dollars (\$10) or less may, by ordinance or resolution, exempt any person from the local services tax whose total earned income and net profits from all sources within the political subdivision is less than twelve thousand dollars (\$12,000) for the calendar year in which the local services tax is levied.

(e) (1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision levying the tax and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer pursuant to section 10 of this act, the political subdivision shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employe's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employe is requesting to be exempted from the local services tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision levying the tax or except as required by clause (2), the employer shall not withhold the tax from the person during the

calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employe with a form at the time of hiring. The Department of Community and Economic Development shall develop and make available to political subdivisions and employers uniform exemption certificates required by this clause.

(2) With respect to a person who claimed an exemption for a given calendar year from the local services tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within that political subdivision equal to or in excess of twelve thousand dollars (\$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 political subdivision in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under clause (3).

(3) 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 under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employes. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision levying the tax may pursue collection under this act.

(4) Except as provided in clause (2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employe from a local services tax.

(f) Such local authorities shall not have authority by virtue of this act:

(1) To levy, assess and collect or provide for the levying, assessment and collection of any tax on the transfer of real property when the transfer is by will or mortgage or the intestate laws of this Commonwealth or on a transfer by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises is taken in trade by such builder as part of the consideration from the purchaser of a new previously unoccupied single family residential premises or on a transfer between corporations operating housing projects pursuant to the housing and redevelopment assistance law and the shareholders thereof, or on

a transfer between nonprofit industrial development agencies and industrial corporations purchasing from them, or on transfer to or from nonprofit industrial development agencies, or on a transfer between husband and wife, or on a transfer between persons who were previously husband and wife but who have since been divorced; provided such transfer is made within three months of the date of the granting of the final decree in divorce, or the decree of equitable distribution of marital property, whichever is later, and 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, or on a transfer between parent and child or the spouse of such a child, or between parent and trustee for the benefit of a child or the spouse of such child, or on a transfer between a grandparent and grandchild or the spouse of such grandchild, or on a transfer between brother and sister or brother and brother or sister and sister or the spouse of such brother or sister, or on a transfer to a conservancy which possesses a tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue Code, and which has as its primary purpose the preservation of land for historic, recreational, scenic, agricultural or open space opportunities, by and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises, or on a correctional deed without consideration, or on a transfer to the United States, the Commonwealth of Pennsylvania, or to any of their instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation, or deed of confirmation in connection with condemnation proceedings, or reconveyance by the condemning 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 one year from the date of condemnation, leases, or on a conveyance to a trustee under a recorded trust agreement for the express purpose of holding title in trust as security for a debt contracted at the time of the conveyance under which the trustee is not the lender and requiring the trustee to make reconveyance to the grantor-borrower upon the repayment of the debt, or a transfer within a family from a sole proprietor family member to a family farm corporation, or in any sheriff sale instituted by a mortgagee in which the purchaser of said sheriff sale is the mortgagee who instituted said sale, or on a privilege, transaction, subject, occupation or personal property which is now or does hereafter become subject to a State tax or license fee;

(2) To levy, assess or collect a tax on the gross receipts from utility service of any person or company whose rates and services are fixed and regulated by the Pennsylvania Public Utility Commission or on any public utility services rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service;

(3) Except on sales of admission to places of amusement, other than on sales of admission to professional baseball events in a city of the third class with a population of not less than one hundred six thousand and not more

than one hundred seven thousand based on the 2000 Federal decennial census, or on sales or other transfers of title or possession of property, to levy, assess or collect a tax on the privilege of employing such tangible property as is now or does hereafter become subject to a State tax; and for the purposes of this clause, real property rented for camping purposes shall not be considered a place of amusement[.];

(4) To levy, assess and collect a tax on goods and articles manufactured in such political subdivision or on the by-products of manufacture, or on minerals, timber, natural resources and farm products produced in such political subdivision or on the preparation or processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources, or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or on any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading, unloading or dumping or storage of such goods, articles, products or by-products; except that local authorities may levy, assess and collect a local services tax and taxes on the occupation, per capita and earned income or net profits of natural persons engaged in the above activities whether doing business as individual proprietorship or as members of partnerships or other associations;

(5) To levy, assess or collect a tax on salaries, wages, commissions, compensation and earned income of nonresidents of the political subdivisions: Provided, That this limitation (5) shall apply only to school districts of the second, third and fourth classes;

(6) To levy, assess or collect a tax on personal property subject to taxation by counties or on personal property owned by persons, associations and corporations specifically exempted by law from taxation under the county personal property tax law: Provided, That this limitation (6) shall not apply to cities of the second class;

(7) To levy, assess or collect a tax on membership in or membership dues, fees or assessment of charitable, religious, beneficial or nonprofit organizations including but not limited to sportsmen, recreational, golf and tennis clubs, girl and boy scout troops and councils;

(8) To levy, assess or collect any tax on a mobilehome or house trailer subject to a real property tax unless the same tax is levied, assessed and collected on other real property in the political subdivision.

(9) To levy, assess or collect any tax on individuals for the privilege of engaging in an occupation except that such a tax, to be known as the local services tax, may be levied, assessed and collected only by the political subdivision of the taxpayer's place of employment. The following apply:

(i) If a local services tax is levied at a combined rate exceeding ten dollars (\$10) in a calendar year, a person subject to the local services tax shall be assessed a pro rata share of the tax for each payroll period in which

the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the 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. Collection of the local services tax levied under this subclause shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in subclause (v).

(ii) If a school district levied an emergency and municipal services tax on the effective date of this subclause, the school district may continue to levy the local services tax in the same amount the school district collected on the effective date of this subclause. However, if a municipality located in whole or in part within the school district subsequently levies the local services tax, the school district may only collect five dollars (\$5) on persons employed within the municipality each calendar year. A school district that did not levy an emergency and municipal services tax on the effective date of this subclause shall be prohibited from levying the local services tax. If a school district and a municipality located in whole or in part within the school district both levy a local services tax at a combined rate exceeding ten dollars (\$10), the school district's pro rata share of the aggregate local services taxes levied on persons employed within the municipality shall be collected by the municipality or its tax officer based on payroll periods as provided under subclause (i) and shall be paid to the school district on a quarterly basis within sixty days of receipt by the municipality or its tax officer.

(iii) Except as provided in subclause (ii), no person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period as established by subclause (iv).

(iv) With respect to a person subject to the local services tax at a combined rate exceeding ten dollars (\$10), 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. With respect to a person subject to the local services tax at a combined rate of not more than ten dollars (\$10), the situs of the tax shall be the place of employment determined as of the day the person first becomes subject to the tax during the calendar year. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order: first, the political subdivision in which a person maintains the person's principal office or is principally employed; second, the political subdivision in which the person resides and works, if the tax is levied by that political subdivision; and third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

(v) In the case of concurrent employment, an employer shall refrain from withholding the local services tax if the employe provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the local services tax withheld and a statement from the employe that the pay statement is from the employe's principal employer and the employe will notify other employers of a change in principal place of employment within two weeks of its occurrence. The Department of Community and Economic Development shall develop a uniform employe statement form.

(vi) The local services tax shall be no more than fifty-two dollars (\$52) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. A political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.

(vii) Political subdivisions shall adopt regulations for the processing of refund claims for overpaid local services taxes for any calendar year. The regulations shall be consistent with 53 Pa.C.S. §§ 8425 (relating to refunds of overpayments) and 8426 (relating to interest on overpayment). Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the local services tax for the last quarter of the calendar year under section 312 of this act, whichever is later, shall not be subject to interest imposed under 53 Pa.C.S. § 8426. Political subdivisions shall only provide refunds for amounts overpaid in a calendar year that exceed one dollar (\$1).

(viii) The Department of Community and Economic Development shall provide suggested forms and technical assistance to facilitate the administration of the local services tax for political subdivisions and reduce the burden of implementation, accounting and compliance for employers and taxpayers.

(ix) For purposes of this clause, "combined rate" shall mean the aggregate annual rate of the local services tax levied by a school district and a municipality located in whole or in part within the school district.

(10) To levy, assess or collect a tax on admissions to motion picture theatres: Provided, That this limitation (10) shall not apply to cities of the second class.

(11) To levy, assess or collect a tax on the construction of or improvement to residential dwellings or upon the application for or issuance of permits for the construction of or improvements to residential dwellings.

(12) To levy, assess and collect a mercantile or business privilege tax on gross receipts or part thereof which are: (i) discounts allowed to purchasers as cash discounts for prompt payment of their bills; (ii) charges advanced by a seller for freight, delivery or other transportation for the purchaser in accordance with the terms of a contract of sale; (iii) received upon the sale of an article of personal property which was acquired by the seller as a trade-in to the extent that the gross receipts in the sale of the article taken in trade does not exceed the amount of trade-in allowance made in acquiring such



article; (iv) refunds, credits or allowances given to a purchaser on account of defects in goods sold or merchandise returned; (v) Pennsylvania sales tax; (vi) based on the value of exchanges or transfers between one seller and another seller who transfers property with the understanding that property of an identical description will be returned at a subsequent date; however, when sellers engaged in similar lines of business exchange property and one of them makes payment to the other in addition to the property exchanged, the additional payment received may be included in the gross receipts of the seller receiving such additional cash payments; (vii) of sellers from sales to other sellers in the same line where the seller transfers the title or possession at the same price for which the seller acquired the merchandise; or (viii) transfers between one department, branch or division of a corporation or other business entity of goods, wares and merchandise to another department, branch or division of the same corporation or business entity and which are recorded on the books to reflect such interdepartmental transactions.

(13) To levy, assess or collect an amusement or admissions tax on membership, membership dues, fees or assessments, donations, contributions or monetary charges of any character whatsoever paid by the general public, or a limited or selected number thereof, for such persons to enter into any place, indoors or outdoors, to engage in any activities, the predominant purpose or nature of which is exercise, fitness, health maintenance, improvement or rehabilitation, health or nutrition education, or weight control.

(14) Except by cities of the second class, to levy, assess or collect a tax on payroll amounts generated as a result of business activity.

(15) Except by cities of the second class in which a sports stadium or arena that has received public funds in connection with its construction or maintenance is located, to levy, assess and collect a publicly funded facility usage fee upon those nonresident individuals who use such facility to engage in an athletic event or otherwise render a performance for which they receive remuneration.

(16) To levy, assess or collect an amusement or admissions tax on the charge imposed upon a patron for the sale of admission to or for the privilege of admission to a bowling alley or bowling lane to engage in one or more games of bowling.

**[(g) For the purposes of this section, the terms “earned income” and “net profits” shall have the same meanings as those terms are given in Division I of section 13.]**

Section 5. Section 2.1 of the act, added October 11, 1984 (P.L.885, No.172), is renumbered and amended to read:

Section [2.1] 302. Recapture of Tax.—(a) Notwithstanding the provisions of section [2(1) of this act] 301.1(f)(1), if any stock of a family farm corporation is transferred to a person who is not a family member within ten years from the date of the conveyance from a sole proprietor family

member to a family farm corporation, the tax imposed by this article shall become immediately due and payable.

**[(b) As used in this act:**

**“Family farm corporation” means a Pennsylvania corporation at least seventy-five percent of the assets of which are devoted to the business of agriculture, which business, for the purposes of this definition, shall not be deemed to include (i) recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing; (ii) 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; (iii) fur farming; (iv) stockyard and slaughterhouse operations; or (v) manufacturing or processing operations of any kind: Provided, however, That at least seventy-five percent of all of the stock of the corporation must be owned by members of the same family.**

**“Members of the same family” means an 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 and a spouse of any of the foregoing. Individuals related by the half blood or by legal adoption shall be treated as if they were related by the whole blood.]**

Section 6. Sections 2.2 and 2.3 of the act, added December 1, 2004 (P.L.1729, No.222), are renumbered and amended to read:

Section **[2.2] 303. Payroll Tax.**—(a) A city of the second class may levy, assess or collect a tax that does not exceed fifty-five hundredths percent on payroll amounts generated as a result of an employer conducting business activity within a city of the second class. For purposes of a payroll tax levied, assessed or collected by a city of the second class, the business activity shall be directly attributable to activity within a city of the second class. For purposes of computation of the payroll tax imposed pursuant to this section, the payroll amount attributable to the city shall be determined by applying an apportionment factor to total payroll expense based on that portion of payroll expense which the total number of days an employe, partner, member, shareholder or other individual works within the city bears to the total number of days such employe or person works within and outside of the city.

(a.1) A charitable organization that qualifies for tax exemption pursuant to the act of November 26, 1997 (P.L.508, No.55), known as the “Institutions of Purely Public Charity Act,” shall calculate the tax that would otherwise be attributable to the city, but shall only pay the tax on that portion of its payroll expense attributable to business activity for which a tax may be imposed pursuant to section 511 of the Internal Revenue Code of 1986 (Public Law **[95-223] 99-514**, 26 U.S.C. § 1 et seq.). If the charity has purchased or is operating branches, affiliates, subsidiaries or other business entities that do not independently meet the standards of the “Institutions of Purely Public Charity Act,” the tax shall be paid on the payroll attributable to such for-

profit branches, affiliates or subsidiaries, whether or not the employees are leased or placed under the auspices of the charity's umbrella or parent organization. Nothing in this subsection shall restrict the ability of a charitable organization to contract with the city to provide services to the city in lieu of some or all taxes due under this section.

(b) For purposes of the payroll tax assessed pursuant to this section, an employer is conducting business within a city of the second class if the employer engages, hires, employs or contracts with one or more individuals as employees and, in addition, the employer does at least one of the following:

- (1) maintains a fixed place of business within the city;
- (2) owns or leases real property within the city for purposes of such business;
- (3) maintains a stock of tangible personal property in the city for sale in the ordinary course of such business;
- (4) conducts continuous solicitation within the city related to such business; or
- (5) utilizes the streets of the city in connection with the operation of such business other than transportation through the city.

(c) All employers in a city of the second class shall file quarterly returns and make quarterly payments as provided for by ordinance enacted by a city of the second class. Every employer making a return shall certify the correctness thereof. A city of the second class may audit, examine or inspect the books, records or accounts of all employers subject to the tax imposed pursuant to this section.

(d) A city of the second class may enact ordinances and regulations necessary to implement this section. The ordinance levying the tax authorized by this section shall permanently replace the city's existing mercantile tax and shall reduce the business privilege tax rate as follows:

- (1) In tax years 2005 and 2006, the business privilege tax shall be two mills.
- (2) In tax years 2007, 2008 and 2009, the business privilege tax shall be one mill unless the revenues collected from the payroll expense tax exceed fifty million five hundred thousand dollars (\$50,500,000) in any fiscal year, at which time the business privilege tax shall be replaced for the subsequent fiscal year. After the phaseout of the business privilege tax, all amounts of moneys in excess of fifty million five hundred thousand dollars (\$50,500,000) shall be used by the city of the second class to further accelerate the reduction of the tax imposed by the city of the second class on parking as provided in section **[5.1] 308**.
- (3) In tax year 2010 and thereafter, the business privilege tax may not be imposed.

(e) All taxes, additions and penalties collected pursuant to this section shall be used by a city of the second class exclusively for the general revenue purposes of the city.

(f) An employer shall not offset the amount of tax paid pursuant to this section by reducing compensation or benefits paid to employees.

(g) A city of the second class may bring suit for the recovery of taxes due and unpaid under this section. Any suit brought to recover the tax imposed by this section shall be commenced within three years after such tax is due or within three years after the declaration or return has been filed, whichever is later: Provided, however, That this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

(1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of this section, there shall be no limitation.

(2) Where an examination of the declaration or return filed by any person or of other evidence relating to such declaration or return in the possession of the city of the second class reveals a fraudulent evasion of taxes, there shall be no limitation.

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

(4) This section shall not be construed to limit the governing body from recovering delinquent taxes by any other means provided by law.

(h) If for any reason the payroll tax is not paid when due, interest at the rate of six percent per annum on the amount of said tax and an additional penalty of one percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of any such tax, the employer shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed. A city of the second class may, by ordinance or resolution, establish a one-time period during which interest or interest and penalties that would otherwise be imposed for the nonreporting or underreporting of payroll tax liabilities or for the nonpayment of payroll taxes previously imposed and due shall be waived in total or in part if the taxpayer voluntarily files delinquent returns and pays the taxes in full during the period so established.

(i) In addition to any other additions, penalties or enforcement proceedings provided for by ordinance of a city of the second class or a law of this Commonwealth for the collection and enforcement of taxes or the submission of information to a government entity:

(1) Any employer who wilfully makes any false or untrue statement on the employer's return commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not more than two thousand dollars (\$2,000) or to imprisonment for not more than two years, or both.

(2) Any employer who wilfully fails or refuses to file a return required by this section commits a misdemeanor of the third degree and shall, upon

conviction, be sentenced to pay a fine of not more than one thousand dollars (\$1,000) or to imprisonment for not more than one year, or both.

(3) Any person who wilfully fails or refuses to appear before the collector in person with the employer's books, records or accounts for examination when required under the provisions of this section or of an ordinance to do so, or who wilfully refuses to permit inspection of the books, records or accounts of any employer in the person's custody or control when the right to make such inspection by the collector is requested, commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than five hundred dollars (\$500) or to imprisonment for not more than six months, or both.

(j) As used in this section:

"Employer" means all persons conducting business activity within a city of the second class except for a governmental entity.

"Payroll amounts" means all amounts paid by an employer as salaries, wages, commissions, bonuses, net earnings and incentive payments, whether based on profits or otherwise, fees and similar remuneration for services rendered, whether directly or through an agent and whether in cash, in property or the right to receive property.

Section [2.3] 304. Nonresident Sports Facility Usage Fee.—A city of the second class in which is located a sports stadium or arena that has received public funds in connection with its construction or maintenance may enact a publicly funded facility usage fee upon those nonresident individuals who use such facility to engage in an athletic event or otherwise render a performance for which they receive remuneration. The fee may be a flat dollar amount or a percentage of the individual's income attributable to such individual's usage of the facility. If the fee is a percentage, it may not exceed three percent of the earned income of the individual attributable to the usage of the facility. If any fee is imposed, those individuals liable for the fee shall be exempt from any earned income tax imposed by the city of the second class pursuant to this [act] *chapter* and any such tax imposed under section 652.1 of the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949." Should a court of competent jurisdiction determine this provision to be invalid for any reason, persons subject to the publicly funded facility usage fee shall not be exempt from any previously applicable earned income tax.

Section 7. Section 3 of the act is renumbered and amended to read:

Section [3] 305. Vacation of Tax Ordinances and Resolutions by State Tax Measures.—If, subsequent to the passage of any ordinance or resolution under the authority of this [act] *chapter*, the General Assembly shall impose a tax or license fee on any privilege, transactions, subject or occupation, or on personal property or on sales of admission to places of amusement or on sales or other transfer of title or possession of property taxed by any such political subdivision hereunder, the act of Assembly imposing the State tax or license fee thereon shall automatically vacate the ordinance or resolution

passed under the authority of this [act] *chapter* as to all taxes accruing subsequent to the end of the current fiscal year of such political subdivision. It is the intention of this section to confer upon such political subdivision the power to levy, assess and collect taxes upon any and all subjects of taxation, except as above restricted and limited, which the Commonwealth has power to tax but which it does not tax or license, subject only to the foregoing provision that any tax or license shall automatically terminate at the end of the current fiscal year of the political subdivision.

Section 8. Sections 4 and 5 of the act, amended October 9, 1967 (P.L.361, No.160), are renumbered and amended to read:

Section [4] 306. Advertisement of Intention to Adopt Tax Ordinance or Resolution.—Prior to the passage of any ordinance or the adoption of any resolution imposing a tax or license fee under the authority hereunder granted, such political subdivision shall give notice of the intention to pass such ordinance or adopt such resolution. Such notice shall be given in addition to all other notices required by law to be given and shall set forth the substantial nature of the tax or license fee to be imposed by the proposed ordinance or resolution, the reason which, in the judgment of the officials of the subdivision, necessitates the imposition of the tax, and the amount of revenue estimated to be derived from the tax. Publication of such notice shall be made by advertisement once a week for three weeks in a newspaper of general circulation within such political subdivision if there is such newspaper and, if there is not, then such publication shall be made in a newspaper of general circulation within the county in which the advertising political subdivision is located.

Every such tax shall continue in force on a calendar or fiscal year basis, as the case may be, without annual reenactment unless the rate of the tax is subsequently changed.

Section [5] 307. Rate, Amount, Court Approval; Revision of Budget.—Any tax imposed under this [act] *chapter* shall not be subject to any limitations under existing laws as to rate or amount or as to the necessity of securing court approval or as to budgetary requirements. Any city, borough or township imposing a tax under this [act] *chapter* may revise its budget during any fiscal year by increasing or making additional appropriations from funds to be provided from such tax.

The ordinance or resolution may be passed or adopted prior to the beginning of the fiscal year and prior to the preparation of the budget when desirable.

Every ordinance or resolution which imposed a tax under the authority of this [act] *chapter* shall be passed or adopted, if for a school district, during the period other school taxes are required by law to be levied and assessed by such district. Each ordinance and resolution shall state that it is enacted under the authority of this [act] *chapter*, known as “The Local Tax Enabling Act”.

Section 9. Section 5.1 of the act, added December 1, 2004 (P.L.1729, No.222), is renumbered to read:

Section **[5.1] 308**. Second Class City Parking Tax Rates.—The rate of the tax imposed on parking transactions shall not differ from the rate contained in City of Pittsburgh Ordinance Number 43-2003 as of January 1, 2004, except as follows:

- (1) In tax year 2007, the rate of tax shall not exceed 45%.
- (2) In tax year 2008, the rate of tax shall not exceed 40%.
- (3) In tax year 2009, the rate of tax shall not exceed 37.5%.
- (4) In tax year 2010, the rate of tax shall not exceed 35% as existed prior to the adoption of the ordinance.

Section 10. Section 6 of the act, repealed in part June 3, 1971 (P.L.118, No.6), is renumbered and amended to read:

Section **[6] 309**. Appeals by Taxpayers.—No tax levied for the first time by any political subdivision to which this **[act] chapter** applies shall go into effect until thirty days from the time of the adoption of the ordinance or resolution levying the tax. Within said thirty days, taxpayers representing twenty-five percent or more of the total valuation of real estate in the political subdivision as assessed for taxation purposes, or taxpayers of the political subdivision not less than twenty-five in number aggrieved by the ordinance or resolution shall have the right to appeal therefrom to the court of quarter sessions of the county upon giving bond with sufficient security in the amount of five hundred dollars (\$500), approved by the court, to prosecute the appeal with effect and for the payment of costs. The petition shall set forth the objections to the tax and the facts in support of such objections, and shall be accompanied by the affidavit of at least five of the petitioners that the averments of the petition are true and the petition is not filed for the purpose of delay.

No such appeal shall act as a supersedeas unless specifically allowed by the court to which the appeal is taken or a judge thereof.

Immediately upon the filing of any such petition, the petitioners shall serve a copy of the petition and any rule granted by the court upon the president, chairman, secretary or clerk of the legislative body levying the tax.

The court shall fix a day for a hearing not less than fifteen days nor more than thirty days after the filing of the petition. Notice of the time of such hearing shall be given to all interested parties as the court shall direct. The court shall promptly hear and dispose of the appeal.

It shall be the duty of the court to declare the ordinance and the tax imposed thereby to be valid unless it concludes that the ordinance is unlawful or finds that the tax imposed is excessive or unreasonable; but the court shall not interfere with the reasonable discretion of the legislative body in selecting the subjects or fixing the rates of the tax. The court may declare invalid all or any portion of the ordinance or of the tax imposed or may reduce the rates of tax.

Section 11. Sections 7, 8 and 9 of the act, amended June 21, 2007 (P.L.13, No.7), are renumbered and amended to read:

**Section [7] 310. Filing of Certified Copies of Ordinances and Resolutions.**—When an ordinance or a resolution is first passed or adopted by a political subdivision imposing a tax or license fee under the authority of this [act] *chapter*, an exact printed or typewritten copy thereof, certified to by the secretary of the taxing body, shall be filed with the Department of Community and Economic Development within fifteen days after the same becomes effective.

Any secretary or person acting as the clerk or secretary of the taxing body of any political subdivision during the meeting at which an ordinance or resolution imposing a tax or license fee is passed or adopted as herein provided who shall fail to file the certified copy or statement relative thereto with the Department of Community and Economic Development as herein required, shall, upon summary conviction thereof in the county in which the political subdivision is located, be sentenced to pay a fine of not less than five dollars (\$5) nor more than twenty-five dollars (\$25), and the costs of prosecution.

**Section [8] 311. Limitations on Rates of Specific Taxes.**—No taxes levied under the provisions of this [act] *chapter* shall be levied by any political subdivision on the following subjects exceeding the rates specified in this section:

- (1) Per capita, poll or other similar head taxes, ten dollars (\$10).
- (2) On each dollar of the whole volume of business transacted by wholesale dealers in goods, wares and merchandise, one mill, by retail dealers in goods, wares and merchandise and by proprietors of restaurants or other places where food, drink and refreshments are served, one and one-half mills; except in cities of the second class, where rates shall not exceed one mill on wholesale dealers and two mills on retail dealers and proprietors. No such tax shall be levied on the dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise, taken by any dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.
- (3) On wages, salaries, commissions and other earned income of individuals, one percent.
- (4) On retail sales involving the transfer of title or possession of tangible personal property, two percent.
- (5) On the transfer of real property, one percent.
- (6) On admissions to places of amusement, athletic events and the like, and on motion picture theatres in cities of the second class, ten percent.
- (7) Flat rate occupation taxes not using a millage or percentage as a basis, ten dollars (\$10).
- (8) Local services taxes, fifty-two dollars (\$52).
- (9) On admissions to ski facilities, ten percent. The tax base upon which the tax shall be levied shall not exceed forty percent of the cost of the lift ticket. The lift ticket shall include all costs of admissions to the ski facility.



(10) On admissions to golf courses, ten percent. The tax base upon which the tax shall be levied shall not exceed forty percent of the greens fee. The greens fee shall include all costs of admissions to the golf course.

(12) On payrolls, fifty-five hundredths percent.

Except as otherwise provided in this [act] *chapter*, at any time two political subdivisions shall impose any one of the above taxes on the same person, subject, business, transaction or privilege, located within both such political subdivisions, during the same year or part of the same year, under the authority of this [act] *chapter* then the tax levied by a political subdivision under the authority of this [act] *chapter* shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate, as above limited, and such one-half rate shall become effective by virtue of the requirements of this [act] *chapter* from the day such duplication becomes effective without any action on the part of the political subdivision imposing the tax under the authority of this [act] *chapter*. When any one of the above taxes has been levied under the provisions of this [act] *chapter* by one political subdivision and a subsequent levy is made either for the first time or is revived after a lapse of time by another political subdivision on the same person, subject, business, transaction or privilege at a rate that would make the combined levies exceed the limit allowed by this subdivision, the tax of the second political subdivision shall not become effective until the end of the fiscal year for which the prior tax was levied, unless:

(1) Notice indicating its intention to make such levy is given to the first taxing body by the second taxing body as follows: (i) when the notice is given to a school district it shall be given at least forty-five days prior to the last day fixed by law for the levy of its school taxes; (ii) when given to any other political subdivision it shall be prior to the first day of January immediately preceding, or if a last day for the adoption of the budget is fixed by law, at least forty-five days prior to such last day; or

(2) Unless the first taxing body shall indicate by appropriate resolution its desire to waive notice requirements in which case the levy of the second taxing body shall become effective on such date as may be agreed upon by the two taxing bodies.

It is the intent and purpose of this provision to limit rates of taxes referred to in this section so that the entire burden of one tax on a person, subject, business, transaction or privilege shall not exceed the limitations prescribed in this section: Provided, however, That any two political subdivisions which impose any one of the above taxes, on the same person, subject, business, transaction or privilege during the same year or part of the same year may agree among themselves that, instead of limiting their respective rates to one-half of the maximum rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate as above permitted.

Notwithstanding the provisions of this section, any city of the second class A may enact a tax upon wages, salaries, commissions and other earned income of individuals resident therein, not exceeding one percent, even though a school district levies a similar tax on the same person provided that the aggregate of both taxes does not exceed two percent.

Section [9] 312. Register for **[Earned Income]** and *Withholding of* Local Services Taxes.—It shall be the duty of the Department of Community and Economic Development to have available an official continuing register supplemented annually of all **[earned income and]** local services taxes levied under authority of this **[act] chapter**. The register and its supplements, hereinafter referred to as the register, shall list such jurisdictions levying **[earned income and]** local services taxes, the rate of the tax as stated in the tax levying ordinance or resolution, and the effective rate on resident and nonresident taxpayers, if different from the stated rate because of a coterminous levy, the name and address of the officer responsible for administering the collection of the tax and from whom information, forms for reporting and copies of rules and regulations are available. With each jurisdiction listed, all jurisdictions making coterminous levies shall also be noted and their tax rates shown.

Information for the register shall be furnished by the secretary of each taxing body to the Department of Community and Economic Development in such manner and on such forms as the Department of Community and Economic Development may prescribe. The information must be received by the Department of Community and Economic Development by certified mail not later than May 31 of each year to show new tax enactments, repeals and changes. Failure to comply with this date for filing may result in the omission of the levy from the register for that year. Failure of the Department of Community and Economic Development to receive information of taxes continued without change may be construed by the department to mean that the information contained in the previous register remains in force.

The Department of Community and Economic Development shall have the register with such annual supplements as may be required by new tax enactments, repeals or changes available upon request not later than July 1 of each year. The effective period for each register shall be from July 1 of the year in which it is issued to June 30 of the following year.

Employers shall not be required by any local ordinance to withhold from the wages, salaries, commissions or other compensation of their employes any tax imposed under the provisions of this act, which is not listed in the register, or make reports of wages, salaries, commissions or other compensation in connection with taxes not so listed: Provided, That if the register is not available by July 1, the register of the previous year shall continue temporarily in effect for an additional period not to exceed one year. The provisions of this section shall not affect the liability of any taxpayer for taxes lawfully imposed under this act.

Ordinances or resolutions imposing **[earned income or]** local services taxes under authority of this **[act] chapter** may contain provisions requiring employers doing business within the jurisdiction of the political subdivision imposing the tax to withhold the tax from the compensation of those of their employes who are subject to the tax: **Provided, That [no employer shall be held liable for failure to withhold earned income taxes or for the payment of such withheld tax money to a political subdivision other than the political subdivision entitled to receive such money if such failure to withhold or such incorrect transmittal of withheld taxes arises from incorrect information as to the employe's place of residence submitted by the employe: And provided further, That]** no employer shall be held liable for failure to withhold the local services tax or for the payment of the withheld tax money to a political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employe as to the employe's place or places of employment, the employe's principal office or where the employe is principally employed: **And provided further, That** an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of section **[2(e)] 301.1(e)** and (f)(9) and remits the amount so withheld in accordance with this section: **And provided further, That** the local services tax shall be applicable to employment 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 shall become effective from January 1 of the year specified in the ordinance or resolution, and the tax shall continue in force on a calendar year basis: **And provided further, That** employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.

Section 12. The act is amended by adding a section to read:

**Section 312.1. (Reserved).**

Section 13. Section 10 of the act, amended November 30, 2004 (P.L.1520, No.192) and December 1, 2004 (P.L.1729, No.222), is renumbered and amended to read:

Section **[10] 313**. Collection of Taxes.—(a) Administrative Personnel; Joint Agreements.—

**(1)** Except as provided in **[subsections (b) and (c)] section 506**, any **[such]** political subdivision is hereby authorized to provide by ordinance or resolution for the creation or designation of **[such] tax** bureaus or the appointment and compensation of **[such officers, clerks, collectors, private agencies or other person and other assistants and employes, either under existing departments, or otherwise as may be deemed necessary,] a political subdivision, public employe, tax bureau or public or private agency** for the assessment and collection of taxes imposed under authority of this **[act] chapter**. Each ordinance or resolution under this section authorizing a **[person] political subdivision, public employe, tax bureau or public or private agency** to act in the capacity and with the authority of a tax

collector shall continue in force without annual reauthorization unless otherwise repealed or revoked by the political subdivision *or unless otherwise provided by this act*.

(2) Except as provided in [subsections (b) and (c), any] *section 506*, political subdivisions imposing taxes under authority of this [act] *chapter* are authorized to make joint agreements for the collection of such taxes or any of them. The same [person or] *political subdivision, tax bureau or public or private* agency may be employed by two or more political subdivisions to collect any taxes imposed by them under authority of this [act] *chapter*.

**(b) Single Collector for Earned Income Taxes When Certain School Districts Impose Such Taxes.—** Except as provided in subsection (c), whenever a school district of the second, third or fourth class shall be established pursuant to section 296, act of March 10, 1949 (P.L.30), known as the “Public School Code of 1949,” added August 8, 1963 (P.L. 564), and such school district shall levy, assess and collect or provide for the levying, assessment and collection of a tax upon earned income, such school district and all cities, boroughs, towns and townships within its geographical limits which levy, assess and collect or provide for the levying, assessment and collection of a tax upon earned income, may on January 1, 1967, or as soon thereafter as the school district shall provide for the levying, assessment and collection of taxes upon earned income, select one person or agency to collect the taxes upon earned income imposed by all such political subdivisions. In selecting such person or agency, each political subdivision shall share in the selection upon a basis agreed upon by each political subdivision, or in the absence of any agreement on the basis of voting according to the proportion that the population of each bears to the entire population of the combined collection district, according to the latest official Federal census, and the majority of such votes cast shall determine the person or agency selected to collect the taxes. The provisions of this paragraph shall not prohibit school districts and other political subdivisions which levy, assess and collect or provide for the levying, assessment and collection of taxes upon earned income, under authority of this act, from selecting the same person or agency to collect such tax upon earned income in an area larger than the geographical limits of a school district established pursuant to section 296 of the “Public School Code of 1949.”

**(c) Single Tax Collector in Certain Home Rule Municipality.—**In a municipality having a population under the 2000 Federal decennial census of at least forty thousand and less than ninety thousand located in a second class county and which municipality has adopted a home rule charter under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government), the person or persons appointed by the board of school directors for the school district in which the municipality is located as collector or collectors of taxes levied by the

school district under this act shall also serve as the collector or collectors of taxes levied by the municipality under this act.]

Section 14. Section 11 of the act is repealed:

[Section 11. Audits of Earned Income Taxes.—Except in cities of the second class, the governing body of each political subdivision which levies, assesses and collects or provides for the levying, assessment and collection of a tax upon earned income, shall provide for not less than one examination each year of the books, accounts and records of the income tax collector, by a certified public accountant, a firm of certified public accountants, a competent independent public accountant, or a firm of independent public accountants appointed by the governing body. Whenever one person or agency is selected to collect earned income taxes for more than one political subdivision, the books, accounts and records of such person or agency shall be examined as provided above in the case of a tax collector for each political subdivision, except that the accountant shall be selected in the manner provided for selection of one person or agency to collect earned income taxes for the school district established under section 296 of the “Public School Code of 1949,” and the cities, boroughs, towns and townships within the geographical limits of such school district. The reports of the audit shall be sent to the governing body or bodies of the political subdivision or political subdivisions employing the accountant. No further or additional audit shall be performed by elected or appointed auditors.]

Section 15. The act is amended by adding a section to read:

**Section 314. (Reserved).**

Section 16. Section 12 of the act is renumbered and amended to read:

Section [12] 315. Audits of Taxes Other Than Earned Income Taxes.—The books, accounts and records of [persons collecting taxes] *tax collectors* pursuant to this [act] *chapter*, other than taxes levied, assessed and collected upon earned income, shall be audited, adjusted and settled in the manner prescribed by law for the auditing, adjusting and settling of accounts of persons receiving or expending funds of the political subdivision which has levied, assessed and collected the taxes pursuant to this [act] *chapter*, other than taxes levied, assessed and collected upon earned income.

Section 17. Section 13 of the act, amended October 4, 1978 (P.L.930, No.177), July 9, 1987 (P.L.203, No.30), December 9, 2002 (P.L.1364, No.166), April 5, 2004 (P.L.208, No.24) and November 30, 2004 (P.L.1520, No.192), is repealed:

[Section 13. Earned Income Taxes.—On and after the effective date of this act the remaining provisions of this section shall be included in or construed to be a part of each tax levied and assessed upon earned income by any political subdivision levying and assessing such tax pursuant to this act. The definitions contained in this section shall be exclusive for any tax upon earned income and net profits levied and

assessed pursuant to this act, and shall not be altered or changed by any political subdivision levying and assessing such tax.

#### I. Definitions

**“Association.”** A partnership, limited partnership, or any other unincorporated group of two or more persons.

**“Business.”** An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association, or any other entity.

**“Corporation.”** A corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency.

**“Current year.”** The calendar year for which the tax is levied.

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

**“Earned income.”** Compensation as determined under section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the “Tax Reform Code of 1971,” and regulations in 61 Pa. Code Pt. I Subpt. B Art. V (relating to personal income tax), not including, however, wages or compensation paid to individuals on active military service. Employe business expenses are allowable deductions as determined under Article III of the “Tax Reform Code of 1971.” The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

**“Income tax officer or officer.”** Person, public employe or private agency designated by governing body to collect and administer the tax on earned income and net profits.

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

**“Net profits.”** The net income from the operation of a business, profession, or other activity, except corporations, determined under section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the “Tax Reform Code of 1971,” and regulations in 61 Pa. Code Pt. I Subpt. B Art. V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the

nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

- (1) any interest earnings generated from any monetary accounts or investment instruments of the farming business;
- (2) any gain on the sale of farm machinery;
- (3) any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and
- (4) any gain on the sale of other capital assets of the farm.

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

“Person or individual.” A natural person.

“Preceding year.” The calendar year before the current year.

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

“Succeeding year.” The calendar year following the current year.

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

## II. Imposition of Tax

The tax levied under this act shall be applicable to earned income received and to net profits earned in the period beginning January 1, of the current year, and ending December 31, of the current year or for taxpayer fiscal years beginning in the current year, except that taxes imposed for the first time shall become effective from the date specified in the ordinance or resolution, 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. Changes in rate shall become effective on the date specified in the ordinance.

## III. Declaration and Payment of Tax

### A. Net Profits.

(1) Every taxpayer making net profits shall, as the governing body elects, (i) pay to the officer an annual payment of tax due on or before April 15, of the succeeding year for the period beginning January 1, and ending December 31, of the current year, or (ii) on or before April 15, of the current year, make and file with the officer on a form prescribed or approved by the officer, a declaration of his estimated net profits during the period beginning January 1, and ending December 31, of the current year, and pay to the officer in four equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration, and the other installments on or before June 15, of the current year, September 15, of the current year, and January 15, of the succeeding year, respectively.

(2) Where the governing body elects to require the filing of a declaration and quarterly payments, any taxpayer who first anticipates any net profit after April 15, of the current year, shall make and file the

declaration hereinabove required on or before June 15, of the current year, September 15, of the current year, or December 31, of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.

(3) Where the governing body requires a declaration of estimated net profits and quarterly payments of tax due on such profits, every taxpayer shall, on or before April 15, of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of net profits earned during the period beginning January 1, of the current year, and ending December 31, of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the officer the balance of 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 his estimated tax, elect to make and file with the officer on or before January 31, of the succeeding year, the final return as hereinabove required.

(4) The officer may be authorized to provide by regulation for the making and 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 hereinabove required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.

(5) Every taxpayer who discontinues business prior to December 31, of the current year, shall, within thirty days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

#### **B. Earned Income.**

##### **Annual Earned Income Tax Return.**

At the election of the governing body every taxpayer shall, on or before April 15, of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of earned income received during the period beginning January 1, of the current year, and ending December 31, of the current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

##### **Earned Income Not Subject to Withholding.**



Every taxpayer who is employed for a salary, wage, commission, or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall as the governing body elects:

(1) Make and file with the officer on a form prescribed or approved by the officer, an annual return setting forth the aggregate amount of earned income not subject to withholding from him during the period beginning January 1, and ending December 31, of the current year, and such other information as the officer may require, and pay to the officer the amount of tax shown as due thereon on or before April 15, of the succeeding year, or

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

#### IV. Collection at Source

(a) Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within fifteen days after becoming an employer, register with the officer his name and address and such other information as the officer may require.

(b) Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof, the tax imposed by ordinance or resolution on the earned income due to his employe or employes, and shall, on or before April 30, of the current year, July 31, of the current year, October 31, of the current year, and January 31, of the succeeding year, file a return and pay to the officer the amount of taxes deducted during the preceding three-month periods ending March 31, of the current year, June 30, of the current year, September 30, of the current year, and December 31, of the current year, respectively. Such return unless otherwise agreed upon between the officer and employer shall show the

name and social security number of each such employe, the earned income of such employe during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employe, the total earned income of all such employes during such preceding three-month period, and the total tax deducted therefrom and paid with the return.

Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the officer on or before the last day of the month succeeding the month for which the tax was withheld.

(c) On or before February 28, of the succeeding year, every employer shall file with the officer:

(1) An annual return showing the total amount of earned income paid, the total amount of tax deducted, and the total amount of tax paid to the officer for the period beginning January 1, of the current year, and ending December 31, of the current year.

(2) A return withholding statement for each employe 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 employe's name, address and social security number, the amount of earned income paid to the employe during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employe, the amount of tax paid to the officer. Every employer shall furnish two copies of the individual return to the employe for whom it is filed.

(d) Every employer who discontinues business prior to December 31, of the current year, shall, within thirty days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

(e) Except as otherwise provided in section 9, every employer who wilfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employe.

(f) The failure or omission of any employer to make the deductions required by this section shall not relieve any employe from the payment of the tax or from complying with the requirements of the ordinance or resolution relating to the filing of declarations and returns.

#### V. Powers and Duties of Officer

(a) It shall be the duty of the officer to collect and receive the taxes, fines and penalties imposed by the ordinance or resolution. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.

(b) Each officer, before entering upon his official duties shall give and acknowledge a bond to the political subdivision or political subdivisions appointing him. If such political subdivision or political subdivisions shall by resolution designate any bond previously given by the officer as adequate, such bond shall be sufficient to satisfy the requirements of the subsection.

Each such bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of this Commonwealth.

Each bond shall be conditioned upon the faithful discharge by the officer, his clerks, assistants and appointees of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required of him by virtue of his office, upon the just and faithful accounting or payment over, according to law, of all moneys and all balances thereof paid to, received or held by him by virtue of his office and upon the delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office.

Each such bond shall be taken in the name of the appointing authority or authorities, and shall be for the use of the political subdivision or political subdivisions appointing the officer, and for the use of such other person or persons for whom money shall be collected or received, or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the principal on the bond.

The political subdivision or political subdivisions appointing the officer, or any person may sue upon the said bond in its or his own name for its or his own use.

Each such bond shall contain the name or names of the surety company or companies bound thereon. The political subdivision or political subdivisions appointing the officer shall fix the amount of the bond at an amount equal to the maximum amount of taxes which may be in the possession of the officer at any given time.

The political subdivision or political subdivisions appointing the officer may, at any time, upon cause shown and due notice to the officer, and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to such political subdivision or political subdivisions for the purpose of making the bond sufficient in amount, without releasing the surety or sureties first approved from any accrued liability or previous action on such bond.

The political subdivision or political subdivisions appointing the officer shall designate the custodian of the bond required to be given by the officer.

(c) The officer charged with the administration and enforcement of the provisions of the ordinance or resolution is hereby empowered to

prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of the ordinance or resolution, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in case of overpayment, for any period of time not to exceed six years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of the ordinance or resolution. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution by the governing body. A copy of such rules and regulations currently in force shall be available for public inspection.

(d) The officer shall refund, on petition of, and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.

(e) The officer and agents designated by him are hereby authorized to examine the books, papers, and records of any employer or of any taxpayer or of any person whom the officer reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the officer reasonably believes to be an employer or taxpayer, is hereby directed and required to give to the officer, or to any agent designated by him, the means, facilities and opportunity for such examination and investigations, as are hereby authorized.

(f) Any information gained by the officer, his agents, or by any other official or agent of the taxing district, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by the ordinance or resolution, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

(g) The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

(h) The officer shall distribute earned income taxes to the appropriate political subdivisions within sixty days of the deadline for payment by an employer as set forth in Division IV(b). The political subdivisions shall not be required to request the officer to distribute the funds collected but shall at least annually reconcile their receipts with the records of the officer and return to or credit the officer with any overpayment. A political subdivision shall not be required to pay a fee or commission to the other political subdivision or its tax officer for tax revenue distributed under this subsection. If the officer, within one year after receiving a tax payment, cannot identify the taxing jurisdiction

entitled to a tax payment, he shall make payment to the municipality in which the tax was collected. If earned income taxes are not distributed to the appropriate political subdivision within one year of receipt, the political subdivision may make a written demand on a tax officer or political subdivision for tax revenues collected and attributable to residents of the political subdivision making the demand. If the taxes attributable to residents of the political subdivision making the demand are not paid within thirty days from the date of the demand, the political subdivision, person, public employe or private agency designated by the political subdivision may enter into an arbitration agreement with the officer under 42 Pa.C.S. Ch. 73 Subch. A (relating to statutory arbitration) or bring an action in an appropriate court of common pleas in the name of the taxing district for the recovery of taxes not distributed in accordance with this subsection. The action must be brought within seven years of the collection of the taxes.

#### **VI. Compensation of Income Tax Officer**

The income tax officer shall receive such compensation for his services and expenses as determined by the governing body. In the case of a single collector established pursuant to subsection (b) of section 10 of this act, the taxing jurisdictions shall share in the compensation and expenses of a single officer according to the proportionate share that the total annual collections for each jurisdiction bears to the total annual collection for all political subdivisions in a single collector district, except that with the agreement of two-thirds of all participating political subdivisions, a different manner of sharing may be substituted.

#### **VII. Suit for Collection of Tax**

(a) The officer may sue in the name of the taxing district for the recovery of taxes due and unpaid under this ordinance.

(b) Any suit brought to recover the tax imposed by the ordinance or resolution shall be begun within three years after such tax is due, or within three years after the declaration or return has been filed, whichever date is later: Provided, however, That this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

(1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of the ordinance or resolution, there shall be no limitation.

(2) Where an examination of the declaration or return filed by any person, or of other evidence relating to such declaration or return in the possession of the officer, reveals a fraudulent evasion of taxes, there shall be no limitation.

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

(4) Where any person has deducted taxes under the provisions of the ordinance or resolution, and has failed to pay the amounts so deducted to the officer, or where any person has wilfully failed or omitted to make the deductions required by this section, there shall be no limitation.

(5) This section shall not be construed to limit the governing body from recovering delinquent taxes by any other means provided by this act.

(c) The officer may sue for recovery of an erroneous refund provided such suit is begun two years after making such refund, except that the suit may be brought within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

#### VIII. Interest and Penalties

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

(b) Notwithstanding the provisions of subsection (a), the governing body may, by ordinance or resolution, establish a one-time period during which interest or interest and penalties that would otherwise be imposed for the nonreporting or underreporting of earned income tax liabilities or for the nonpayment of earned income taxes previously imposed and due shall be waived in total or in part if the taxpayer voluntarily files delinquent returns and pays the taxes in full during the period so established. Each governing body may adopt regulations to implement the provisions of this subsection.

(c) The provisions of subsection (b) shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under the provisions of this act, or prevent the commencement or further prosecution of any proceedings by the proper authorities for violations of this act. No proceedings shall, however, be commenced on the basis of delinquent returns filed pursuant to subsection (b) if the returns are determined to be substantially true and correct and the taxes are paid in full within the prescribed time.

#### IX. Fines and Penalties for Violation of Ordinances or Resolutions

(a) Any person who fails, neglects, or refuses to make any declaration or return required by the ordinance or resolution, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employes, or fails, neglects or refuses to deduct or withhold the tax from his employes, any person who refuses to permit the officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false

or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by the ordinance or resolution, shall, upon conviction thereof before any justice of the peace, alderman or magistrate, or court of competent jurisdiction in the county or counties in which the political subdivision imposing the tax is located, be sentenced to pay a fine of not more than five hundred dollars (\$500) for each offense, and costs, and, in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty days.

(b) Any person who divulges any information which is confidential under the provisions of the ordinance or resolution, shall, upon conviction thereof before any justice of the peace, alderman or magistrate, or court of competent jurisdiction, be sentenced to pay a fine of not more than five hundred dollars (\$500) for each offense, and costs, and, in default of payment of said fines and costs to be imprisoned for a period not exceeding thirty days.

(c) The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of the ordinance or resolution.

(d) The failure of any person to receive or procure forms required for making the declaration or returns required by the ordinance or resolution shall not excuse him from making such declaration or return.]

Section 18. The act is amended by adding a section to read:

*Section 316. (Reserved).*

Section 19. Section 14 of the act, amended October 26, 1972 (P.L.1043, No.261), is renumbered and amended to read:

Section [14] 317. Payment of Tax to Other Political Subdivisions or States as Credit or Deduction; Withholding Tax.—Payment of any tax to any political subdivision pursuant to an ordinance or resolution passed or adopted prior to the effective date of this act shall be credited to and allowed as a deduction from the liability of taxpayers for any like tax respectively on salaries, wages, commissions, other compensation or on net profits of businesses, professions or other activities and for any income tax imposed by any other political subdivision of this Commonwealth under the authority of this [act] chapter.

Payment of any tax on salaries, wages, commissions, other compensation or on net profits of business, professions or other activities to a political subdivision by residents thereof pursuant to an ordinance or resolution passed or adopted under the authority of this [act] chapter shall be credited to and allowed as a deduction from the liability of such persons for any other like tax respectively on salaries, wages, commissions, other compensation or on net profits of businesses, professions or other activities imposed by any other political subdivision of this Commonwealth under the authority of this [act] chapter.

Payment of any tax on income to any political subdivision by residents thereof pursuant to an ordinance or resolution passed or adopted under the authority of this **[act] chapter** shall, to the extent that such income includes salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities, but in such proportion as hereinafter set forth, be credited to and allowed as a deduction from the liability of such persons for any other tax on salaries, wages, commissions, other compensation or on net profits of businesses, professions, or other activities imposed by any other political subdivision of this Commonwealth under the authority of this **[act] chapter**.

Payment of any tax on income to any state or to any political subdivision thereof by residents thereof, pursuant to any State or local law, may, at the discretion of the Pennsylvania political subdivision imposing such tax, to the extent that such income includes salaries, wages, commissions, or other compensation or net profits of businesses, professions or other activities but in such proportions as hereinafter set forth, be credited to and allowed as a deduction from the liability of such person for any other tax on salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities imposed by any political subdivision of this Commonwealth under the authority of this **[act] chapter**, if residents of the political subdivision in Pennsylvania receive credits and deductions of a similar kind to a like degree from the tax on income imposed by the other state or political subdivision thereof.

Payment of any tax on income to any State other than Pennsylvania or to any political subdivision located outside the boundaries of this Commonwealth, by residents of a political subdivision located in Pennsylvania shall, to the extent that such income includes salaries, wages, commissions, or other compensation or net profits of businesses, professions or other activities but in such proportions as hereinafter set forth, be credited to and allowed as a deduction from the liability of such person for any other tax on salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities imposed by any political subdivision of this Commonwealth under the authority of this **[act.] chapter**.

Where a credit or a deduction is allowable in any of the several cases hereinabove provided, it shall be allowed in proportion to the concurrent periods for which taxes are imposed by the other state or respective political subdivisions, but not in excess of the amount previously paid for a concurrent period.

No credit or deduction shall be allowed against any tax on earned income imposed under authority of this **[act] chapter** to the extent of the amount of credit or deduction taken for the same period by the taxpayer against any income tax imposed by the Commonwealth of Pennsylvania under section 314 of the act of March 4, 1971 (P.L.6, *No.2*) known as the "Tax Reform Code of 1971," on account of taxes imposed on income by other states or by their political subdivisions.



Section 20. Section 15 of the act, amended June 27, 1968 (P.L.271, No.128), is renumbered and amended to read:

Section **[15] 318**. Personal Property.—Any assessment of a tax on personal property of a decedent shall include all property owned, held or possessed by a decedent, which should have been returned by him for taxation for any former year or years not exceeding five years prior to the year in which the decedent died. Wherever any personal property taxable under the provisions of this **[act] chapter**, was owned by a decedent at the time of his death and is held by his executor or administrator, return of such personal property shall be made and the tax paid, if such decedent was domiciled at the time of his death in the political subdivision imposing the tax, notwithstanding the residence or location of such executor or administrator or of any beneficiary, or the place which such securities are kept.

Section 21. Sections 16 and 17 of the act are renumbered and amended to read:

Section **[16] 319**. Limitation on Assessment.—No assessment may be made of any tax imposed under this **[act] chapter** more than five years after the date on which such tax should have been paid except where a fraudulent return or no return has been filed.

Section **[17] 320**. Tax Limitations.—(a) Over-all Limit of Tax Revenues.—The aggregate amount of all taxes imposed by any political subdivision under this section and in effect during any fiscal year shall not exceed an amount equal to the product obtained by multiplying the latest total market valuation of real estate in such political subdivision, as determined by the board for the assessment and revision of taxes or any similar board established by the assessment laws which determines market values of real estate within the political subdivision, by twelve mills. In school districts of the second class, third class and fourth class and in any political subdivision within a county where no market values of real estate have been determined by the board for the assessment and revision of taxes, or any similar board, the aggregate amount of all taxes imposed under this section and in effect during any fiscal year shall not exceed an amount equal to the product obtained by multiplying the latest total market valuation of real estate in such school district, or other political subdivision, as certified by the State Tax Equalization Board, by twelve mills. In school districts of the third and fourth class, taxes imposed on sales involving the transfer of real property shall not be included in computing the aggregate amount of taxes for any fiscal year in which one hundred or more new homes or other major improvements on real estate were constructed in the school district.

The aggregate amount of all taxes imposed by any independent school district under this section during any fiscal year shall not exceed an amount equal to the product obtained by multiplying the latest total valuation of real estate in such district by fifteen mills.

(b) Reduction of Rates Where Taxes Exceed Limitations; Use of Excess Moneys.—If, during any fiscal year, it shall appear that the aggregate revenues from taxes levied and collected under the authority of this [act] *chapter* will materially exceed the limitations imposed by this [act] *chapter*, the political subdivision shall forthwith reduce the rate or rates of such tax or taxes to stay within such limitations as nearly as may be. Any one or more persons liable for the payment of taxes levied and collected under the authority of this [act] *chapter* shall have the right to complain to the court of common pleas of the county in an action of mandamus to compel compliance with the preceding provision of this subsection. Tax moneys levied and collected in any fiscal year in excess of the limitations imposed by this [act] *chapter* shall not be expended during such year, but shall be deposited in a separate account in the treasury of the political subdivision for expenditure in the following fiscal year. The rates of taxes imposed under this [act] *chapter* for the following fiscal year shall be so fixed that the revenues thereby produced, together with the excess tax moneys on deposit as aforesaid, shall not exceed the limitations imposed by this [act] *chapter*.

Section 22. The act is amended by adding sections to read:

**Section 329. Legal Representation.**—*When bringing a suit under any provision of this chapter, the taxing district or the person, public employe or private agency designated by the taxing district shall be represented by an attorney.*

**Section 330. Restricted Use.**—*(a) Any municipality deriving funds from the local services tax may only use the funds for:*

*(1) Emergency services, which shall include emergency medical services, police services and fire services.*

*(2) Road construction and maintenance.*

*(3) Reduction of property taxes.*

*(4) Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85 Subch. F (relating to homestead property exclusion).*

*(a.1) A municipality shall use no less than twenty-five percent of the funds derived from the local services tax for emergency services.*

*(b) In the event that a municipality decides to implement a homestead and farmstead exclusion for purposes of providing property tax relief in accordance with subsection (a)(4), the following shall apply:*

*(1) The decision to provide a homestead and farmstead exclusion shall be made, by ordinance, prior to December 1, with the homestead and farmstead exclusion to take effect for the fiscal year beginning the first day of January following adoption of the ordinance. Upon adopting an ordinance in accordance with this paragraph, a municipality shall, by first class mail, notify the assessor, as defined in 53 Pa.C.S. § 8582 (relating to definitions), of its decision to provide a homestead and farmstead exclusion.*

**(2) The assessor shall provide a municipality that will be imposing a homestead and farmstead exclusion in accordance with subsection (a)(4) with a certified report, as provided in 53 Pa.C.S. § 8584(i) (relating to administration and procedure), listing information regarding homestead and farmstead properties in the municipality as determined pursuant to applications filed with the assessor in connection with this or any other law under which a homestead or farmstead exclusion has been adopted. In the year in which an ordinance is adopted in accordance with paragraph (1), the assessor shall provide the certified report after being notified by the municipality of its decision to provide a homestead and farmstead exclusion. In each succeeding year, the assessor shall provide the certified report by December 1, or at the same time the tax duplicate is certified to the municipality, whichever occurs first. Any duty placed on an assessor in accordance with this paragraph shall be in addition to those established in 53 Pa.C.S. Ch. 85 Subch. F and the act of June 27, 2006 (1st Sp.Sess. P.L.1873, No.1), known as the "Taxpayer Relief Act."**

**(3) Only homestead or farmstead properties identified in the certified report of the assessor obtained in any year shall be eligible to receive the exclusion for the next fiscal year.**

**(4) In the year in which a municipality adopts the ordinance evidencing its decision to implement a homestead and farmstead exclusion, the municipality shall notify by first class mail the owner of each parcel of residential property within the municipality which is not approved as a homestead or farmstead property or for which the approval is due to expire of the following:**

**(i) That the homestead and farmstead exclusion program is to be implemented to provide property tax relief as authorized by subsection (a)(4), beginning in the next fiscal year.**

**(ii) That only properties currently identified in the certified report of the assessor as having been approved in whole or in part as homestead or farmstead properties shall be entitled to an exclusion in the next fiscal year.**

**(iii) That owners of properties that have not been approved by the assessor as homestead or farmstead properties may file an application in accordance with 53 Pa.C.S. § 8584(a) by the annual application deadline of March 1 in order to qualify for the program in the year following the next fiscal year.**

**(5) The one-time notice required by paragraph (4) may be combined and made together with the annual notice required by paragraph (7) or with an annual notice by a coterminous political subdivision that has implemented a homestead and farmstead exclusion.**

**(6) In the year in which the initial decision to provide a homestead and farmstead exclusion is made and in each succeeding year, a municipality shall, by resolution, fix the dollar amount that is to be excluded from the assessed value of each homestead and farmstead property for the next**

*fiscal year, consistent with 53 Pa.C.S. §§ 8583 (relating to exclusion for homestead property) and 8586 (relating to limitations). This determination of the amount of the homestead and farmstead exclusion shall be made, after receipt of the tax duplicate and the certified report from the assessor, at the time the governing body of a municipality determines the municipal budget and estimates revenues to be derived from the local services tax for the next fiscal year.*

*(7) Each year after the year in which the municipality implements a homestead and farmstead exclusion and no later than one hundred twenty days prior to the application deadline, the municipality shall give notice of the existence of the municipality's homestead and farmstead exclusion program; the need to file an application in accordance with 53 Pa.C.S. § 8584(a) in order to qualify for the program; and the application deadline, which, notwithstanding 53 Pa.C.S. § 8584(b), shall be December 15. This annual notice, which shall be given by first class mail, need only be sent to the owner of each parcel of residential property in the municipality which is not approved as homestead or farmstead property or for which the approval is due to expire.*

*(c) For purposes of this section, the term "municipality" does not include a school district.*

Section 23. The act is amended by adding a chapter to read:

#### **CHAPTER 5**

#### **CONSOLIDATED COLLECTION OF LOCAL INCOME TAXES**

##### **Section 501. Definitions.**

*The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:*

*"Article XIII tax officer." The tax officer authorized by a political subdivision to collect income taxes levied prior to January 1, 2012.*

*"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.*

*"Certified public accountant" or "public accountant." A certified public accountant, public accountant or firm, as provided for in the act of May 26, 1947 (P.L.318, No.140), known as the CPA Law.*

*"Claim." A written demand for payment made by a tax officer or tax collection district for income taxes collected by another tax officer or tax collection district.*

**“Corporation.”** *A corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency. The 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 Department of Community and Economic Development of the Commonwealth.*

**“Domicile.”** *The place where a person lives and has a permanent home and to which the person has the intention of returning whenever 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 voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce the person to adopt some other permanent home. In the case of a business, 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 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. Employee business expenses as reported to or determined by the Department of Revenue under Article III of the Tax Reform Code of 1971 shall constitute allowable deductions in determining earned income. 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 by a political subdivision on earned income and net profits.*

**“Effective income tax rate.”** *The actual tax rate levied by a political subdivision on a taxpayer based on the total of all income taxes imposed under this act and all other acts, adjusted under section 311.*

**“Effective local services tax rate.”** *The actual local services tax rate levied by a political subdivision on taxpayers based on the total of all local services taxes imposed under this act and all other acts, adjusted under section 311.*

**“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 under this chapter, the term includes a corporate officer.*

**“Income tax.”** *Except as set forth in section 511(b), an earned income and net profits tax, personal income tax or other tax that is assessed on the income of a taxpayer levied by a political subdivision under the authority of this act or any other act.*

**“Joint tax collection committee.”** *An entity formed by two or more tax collection committees for the purpose of income tax collection in more than one tax collection district.*

**“Local services tax.”** *A tax on individuals for the privilege of engaging in an occupation that is levied, assessed and collected only by the political subdivision of the taxpayer’s place of employment under the authority of this act or any other act.*

**“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.*

**“Net profits.”** *The net income from the operation of a business, other than a corporation, 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 rules and regulations promulgated under that section. The term does not include income under any of the following paragraphs:*

(1) *Income which:*

- (i) *is not paid for services provided; and*
- (ii) *is in the nature of earnings from an investment.*

(2) *Income which represents:*

- (i) *any gain on the sale of farm machinery;*
- (ii) *any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes; or*
- (iii) *any gain on the sale of other capital assets of a farm.*

**“Nonresident.”** *A person or business domiciled outside the political subdivision levying the tax.*

**“Nonresident tax.”** *An income tax levied by a municipality on a nonresident.*

**“Official register.”** *The part of the tax register that includes withholding tax rates as provided in section 511(a)(3).*

**“Person.”** *A natural person.*

**“Political subdivision.”** *A city of the second class, city of the second class A, city of the third class, borough, town, township of the first class, township of the second class, school district of the first class A, school district of the second class, school district of the third class, school district of the fourth class or municipal authority.*

**“Preceding year.”** *The calendar year before the current year.*

**“Private agency.”** *A business entity or person appointed as a tax officer by a tax collection committee.*

**“Public agency.”** *Any and all public bodies, authorities, agencies, instrumentalities, political subdivisions, intermediate units, councils, boards, commissions or similar governmental entities.*

**“Resident.”** *A person or business domiciled in the political subdivision levying the tax.*

**“Resident tax.”** *An income tax levied by:*

- (1) *a municipality on a resident of that municipality; or*
- (2) *a school district on a resident of that school district.*

**“Resident tax officer.”** *The tax officer administering and collecting income taxes for the tax collection district in which a taxpayer is domiciled.*

**“Succeeding year.”** *The calendar year following the current year.*

**“Tax bureau.”** *A public nonprofit entity established for the administration and collection of taxes.*

**“Tax collection committee.”** *The committee established to govern each tax collection district for the purpose of income tax collection. The term shall include a joint tax collection committee.*

**“Tax collection district.”** *A tax collection district established under section 504.*

**“Tax officer.”** *A political subdivision, public employee, tax bureau, county, except a county of the first class, or private agency which administers and collects income taxes 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 for the tax collection district within which the employer is located, or, if an employer maintains workplaces in more than one district, the tax officer for each such district with respect to employees principally employed therein.*

**“Tax records.”** *Tax returns, supporting schedules, correspondence with auditors or taxpayers, account books and other documents, including electronic records, obtained or created by the tax officer to administer or collect a tax under this act. The term includes documents required by section 509(e). The term “electronic records” includes data and information inscribed on a tangible medium or stored in an electronic or other medium and which is retrievable in perceivable form.*

**“Tax register.”** *A database of all county, municipal and school tax rates available on the Internet as provided in section 511(a)(1).*

**“Taxable income.”** *Includes:*

(1) *In the case of an earned income and net profits tax, earned income and net profits.*

(2) *In the case of a personal income tax, income enumerated in section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, as reported to and determined by the Department of Revenue, subject to correction for fraud, evasion or error, as finally determined by the Commonwealth.*

**“Taxpayer.”** *A person or business required under this act to file a return of an income tax or to pay an income tax.*

**“Withholding tax.”** *An income tax or a local services tax levied by a political subdivision under the authority of this act or any other act, or any other tax levied by a municipality or school district for which employer withholding may be required under this act or any other act.*

**Section 502.** *Declaration and payment of income taxes.*

**(a) Application.—**

**(1) 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 the ordinance or resolution, 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.**

**(2) 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.**

**(b) Partial domicile.—The taxable income subject to tax of a taxpayer who is domiciled in a political subdivision 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 political subdivision, 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 half 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 are equal, the calendar month shall be included in calculating the number of months in the new domicile.**

**(c) Declaration and payment.—Except as provided in subsection (a)(2), taxpayers shall declare and pay income taxes as follows:**

**(1) 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 section 512 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 resident tax officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.**

**(2) (i) Every taxpayer making net profits shall, by April 15 of the current year, make and file with the resident 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 resident 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.*

*(ii) 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 resident tax officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.*

*(iii) 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 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 resident 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 resident tax officer on or before January 31 of the succeeding year, the final return.*

*(iv) 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.*

*(v) 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 paragraph and pay the tax due.*

*(3) Every taxpayer who receives any other taxable income not subject to withholding under section 512(3) 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 resident 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.*

*Section 503. (Reserved).*

*Section 504. Tax collection districts.*

*(a) General rule.—A tax collection district is established in each county, except a county of the second class, for purposes of collecting income taxes. The geographic boundaries of a tax collection district shall be coterminous with the county in which it is created, except as provided in this section. A school district located in more than one county shall be included in the tax collection district with the greatest share of the school district's population based on the 2000 Federal Decennial Census. A municipality shall be included in the tax collection district in which its school district is located. If a municipality is located in more than one school district, each of which is in a different tax collection district, the portion of the municipality in each school district shall be included in the tax collection district for that school district. The department shall establish a list of all tax collection districts and the political subdivisions in each tax collection district. By January 16, 2009, the list shall be transmitted to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin, and by January 28, 2009, the list shall be made available on the department's Internet website.*

*(b) Counties of the second class.—Each county of the second class with a population of more than 1,000,000 persons, and which also contains a city of the second class, shall be divided into four tax collection districts, each to be as consistent as practicable with the general rules pertaining to municipalities and school districts contained in subsection (a), and to be further established as follows:*

*(1) One district shall be comprised of a city of the second class and any municipality and school district geographically located within the boundaries of such city.*

*(2) The remainder of the county shall be divided into three tax collection districts of relatively equal population which contain coterminous municipalities and school districts that are bordered by the county boundaries and by commercially navigable rivers which are at least 100 miles in length.*

*(3) The department shall develop a map and a list of all tax collection districts in each county of the second class and the political subdivisions in each tax collection district. By January 16, 2009, the list shall be transmitted to the Legislative Reference Bureau for publication*

*in the Pennsylvania Bulletin and by January 28, 2009, the list shall be made available on the department's Internet website.*

*(c) Existing consolidated collection arrangements.—Notwithstanding the provisions of subsection (a), in any county in which, on the effective date of this section, all political subdivisions levying an income tax, including a county school district located partially outside of but contiguous to the county, are served by one existing tax bureau, the county tax collection district shall also include such a school district and all of its component municipalities in the event a tax collection committee is established for that county pursuant to section 505(m).*

*Section 505. Tax collection committees.*

*(a) General rule.—Subject to the provisions of subsection (m), each tax collection district shall be governed by a tax collection committee constituted and operated as set forth in this section. Meetings of the tax collection committee shall be conducted under 65 Pa.C.S. Ch. 7 (relating to open meetings) and the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.*

*(a.1) Duties.—A tax collection committee has the following duties:*

*(1) To keep records of all votes and other actions taken by the tax collection committee.*

*(2) To appoint and oversee a tax officer for the tax collection district as provided in section 507(a).*

*(3) To set the compensation of the tax officer under section 507(c).*

*(4) To require, hold, set and review the tax officer's bond required by section 509(d).*

*(5) To establish the manner and extent of financing of the tax collection committee.*

*(6) To adopt, amend and repeal bylaws for the management of its affairs consistent with subsection (f) and regulations under section 508.*

*(7) To adopt, amend and repeal policies and procedures consistent with the regulations under section 508 for the administration of income taxes within the tax collection district. The procedures shall supersede any contrary resolutions or ordinances adopted by a political subdivision. This authority shall not be construed to permit a tax collection committee to change the rate or subject of any tax.*

*(a.2) Powers.—A tax collection committee has the following powers:*

*(1) To adopt, amend and repeal resolutions to carry out its powers and duties under this section.*

*(2) To create a tax bureau and to provide for its operation and administration. The department shall, upon request of a tax collection committee, provide technical assistance to the tax collection committee in the creation of a tax bureau.*

*(3) To enter into contracts as necessary.*

*(4) To appoint a director for the tax collection committee and other employees as necessary and to fix their compensation.*

(5) *To retain counsel, auditors and other consultants or advisors to render professional services as necessary.*

(6) *To acquire, lease, rent or dispose of real or personal property.*

(7) *To enter into agreements with one or more other tax collection committees to form a joint tax collection committee. Such agreements may assign to a joint tax collection committee some or all of the powers and duties enumerated in subsection (a.1) and this subsection with respect to all tax collection districts from which the joint tax collection committee is formed.*

(8) *To sue and be sued, and complain and defend in all courts.*

(9) *To borrow money, accept grants, incur indebtedness and issue notes, debentures and other obligations to evidence borrowing for the purposes for which it is organized in an amount not to exceed 50% of the total revenues anticipated in the following fiscal year.*

*(b) Delegates.—*

(1) *The governing body of each political subdivision within a tax collection district that imposed an income tax prior to July 1, 2009, shall appoint one voting delegate and one or more alternates to represent the political subdivision on the tax collection committee by September 15, 2009. The governing body of each political subdivision that after June 30, 2009, imposes an income tax for the first time shall appoint one voting delegate and one or more alternates to represent the political subdivision on the tax collection committee. A voting delegate or alternate shall serve at the pleasure of the governing body of the political subdivision.*

(2) *The governing body of each political subdivision within a tax collection district that prior to July 1, 2009, does not impose an income tax may appoint one nonvoting delegate and one or more alternates to represent the political subdivision on the tax collection committee. If, after June 30, 2009, the political subdivision imposes an income tax, the nonvoting delegate shall become a voting delegate to represent the political subdivision on the tax collection committee.*

*(b.1) Quorum.—Unless otherwise provided for in the bylaws of a tax collection committee, a majority of the delegates of a tax collection committee appointed under subsection (b)(1) constitutes a quorum. A quorum must be present in order to take official action.*

*(b.2) Lack of quorum at first meeting.—If a quorum is not present at the first meeting, the chair of the governing body of the county in which the tax collection district is located or the chair's designee shall reschedule the meeting within three weeks. The chair or the chair's designee shall provide, by first class mail, notice of the rescheduled meeting to the department and to the governing bodies of all political subdivisions in the tax collection district on a form prescribed by the department. The form shall include the date, time and location of the rescheduled meeting and a notice that the delegates present at the rescheduled meeting shall constitute*

*a quorum. The rescheduled meeting shall be deemed to be the first meeting for purposes of this chapter.*

*(c) Voting rights.—*

*(1) Only a delegate appointed by the governing body of a political subdivision may represent a political subdivision at a tax collection committee meeting. If a delegate cannot be present for a tax collection committee meeting, the alternate appointed under this section may represent the political subdivision. Each delegate or alternate shall be entitled to vote upon any action authorized or required of the tax collection committee under this chapter.*

*(2) For the first meeting of the tax collection committee, actions of the tax collection committee shall be determined by a majority vote of those delegates present. Votes shall be weighted among the governing bodies of the member political subdivisions according to the following formula: 50% shall be allocated according to the proportional population of each political subdivision in proportion to the population of each tax collection district as determined by the most recent Federal decennial census data and 50% shall be weighted in direct proportion to income tax revenues collected in each political subdivision, based on each political subdivision's most recent annual financial report submitted to the department or the Department of Education. For subsequent meetings, votes shall be taken in accordance with this paragraph unless the bylaws provide otherwise.*

*(3) No later than September 1, 2009, the department shall calculate the weighted vote for each political subdivision within each tax collection district based on the formula specified in paragraph (2). By July 1 of the year following the first meeting, and of each year thereafter, each tax collection committee shall recalculate the weighted vote unless the bylaws provide for a more frequent recalculation.*

*(4) If a political subdivision within the tax collection district imposes an income tax for the first time, the tax collection committee shall recalculate the weighted vote or other method of voting under the bylaws.*

*(d) First meeting schedule.—The first meeting of the tax collection committee in each tax collection district shall be on or before November 15, 2009. The chair of the county commissioners or the chief executive of the county in which the tax collection district is primarily located or the chair's designee shall schedule the first meeting of the tax collection committee and shall provide, at least 21 days before the meeting, public notice, as required by 65 Pa.C.S. § 703 (relating to definitions), and notice by first class mail by September 15, 2009, to the department and to the governing body of each political subdivision located in the tax collection district.*

*(e) First meeting agenda.—The chair of the county commissioners or the chair's designee or the chief executive of the county or his designee*

*shall convene the first meeting of the tax collection committee, conduct the meeting and record all votes until a chairperson, vice chairperson and secretary are elected by the tax collection committee. The voting delegates of the tax collection committee shall elect a chairperson and a vice chairperson, each of whom must be duly appointed voting delegates, and a secretary who need not be a duly appointed voting delegate. The chairperson shall schedule meetings, set the agenda, conduct meetings, record votes and perform other duties as determined by the tax collection committee. The secretary shall maintain the minutes and records of the tax collection committee and provide public notices and all notices to each delegate and alternate appointed to the tax collection committee.*

*(f) Bylaws.—No later than April 15, 2010, the delegates of each tax collection committee shall adopt bylaws to govern the tax collection committee and notify the department within 30 days of adoption. The department shall provide sample bylaws to the tax collection committee. Written notice shall be provided to each delegate and alternate delegate that the adoption or amendment of bylaws will be considered at a meeting. Notice shall include copies of the proposed bylaws or amendments. The bylaws for each tax collection committee shall provide for the following:*

*(1) Rules of procedure, quorum requirements, voting rights and provisions for managing the affairs of the tax collection committee.*

*(2) A list of officers, their terms and powers and a process for their election.*

*(3) Meetings, including special meetings.*

*(4) The process for adopting and amending bylaws.*

*(5) The procedure for the addition of new political subdivisions to the tax collection committee.*

*(g) Officers.—Upon the election of any new officers, the tax collection committee shall notify the department within 30 days and shall provide the department with the name and address of each officer.*

*(h) Audits of taxes received and disbursed.—*

*(1) By the end of each calendar year, the tax collection committee shall provide for at least one examination for each calendar year of the books, accounts, financial statements, compliance reports and records of the tax officer by a certified public accountant or public accountant approved by the tax collection committee. The examination shall include an audit of all records relating to the cash basis receipt and disbursement of all public money by the tax officer, a reconciliation of the monthly reports required by section 509(b), an analysis of the bond amount under section 509(d) and an analysis of the collection fees charged to the tax collection committee. In the case of a private agency, the examination shall not include payroll and other proprietary information. The examination shall be conducted according to generally accepted governmental auditing standards.*

*(2) The certified public accountant or public accountant shall issue a report, in a format prescribed by the department, to the tax collection committee, which shall include an auditor's opinion letter, a financial statement, a reconciliation of the monthly reports required by section 509(b) with the receipts and disbursements, a summary of collection fees charged to the tax collection committee, a report on the tax officer's compliance with this act, a list of any findings of noncompliance with this act and a copy of a management letter if one is issued by the auditor. If there are findings of noncompliance, a copy of the report shall be filed with the Department of the Auditor General and the department. A copy of the report shall be filed with all political subdivisions within the tax collection district and the department on or before September 1 of the succeeding year. The department may make available on its Internet website summary data from the reports filed under this subsection.*

*(i) Applicability of statutes.—Each tax collection committee shall be subject to the provisions of the following:*

*(1) The Right-to-Know Law.*

*(2) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.*

*(3) 65 Pa.C.S. Ch. 7 (relating to open meetings).*

*(4) 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).*

*(j) Appeals board.—*

*(1) By June 1, 2010, each tax collection committee shall establish an appeals board comprised of a minimum of three delegates or, in the case of a tax collection committee established pursuant to subsection (m), a minimum of three residents of the county.*

*(2) A determination of the tax officer relating to the assessment, collection, refund, withholding, remittance or distribution of income taxes may be appealed to the appeals board by a taxpayer, employer, political subdivision or another tax collection district.*

*(3) All appeals, other than those brought under subsection (k), shall be conducted in a manner consistent with 53 Pa.C.S. §§ 8431 (relating to petitions), 8432 (relating to practice and procedure), 8433 (relating to decisions), 8434 (relating to appeals) and 8435 (relating to equitable and legal principles to apply).*

*(4) A tax collection committee may enter into an agreement with another tax collection committee to establish a joint appeals board.*

*(5) No member of an appeals board or joint appeals board may be a tax officer or an employee, agent or attorney for a tax officer.*

*(6) An appeals board appointed pursuant to this section shall constitute a joint local tax appeals board as provided for in 53 Pa.C.S. § 8430 (relating to administrative appeals) for purposes of taxes*

*collected under the supervision of the appointing tax collection committee.*

*(k) Mediation and appeals of tax collector actions.—*

*(1) Any dispute among the affected parties involving a 10% or greater deviation from taxes received in the previous tax year shall be subject to mandatory mediation under this section, in accordance with regulations and guidelines to be adopted by the department. A dispute involving less than the 10% threshold may be the subject of voluntary mediation in accordance with regulations and guidelines to be adopted by the department.*

*(2) One or more affected political subdivisions shall give written notice to the tax collection committee and the department of its desire to submit the disputed matter to mediation by the department. Thereafter, the affected political subdivisions, tax collection committee and tax officer shall submit to mediation to which the following provisions shall apply:*

*(i) Within 20 days of submission of the written notice, the affected political subdivisions, tax collection committee and tax officer shall each submit to the mediator and each other party to the mediation a statement of no more than five pages, stating the position of such party as to the disputed and undisputed facts and issues in the case and whether prior settlement negotiations have occurred.*

*(ii) Within 30 days of submission of the written notice, the department shall determine whether the dispute meets the threshold conditions for mandatory mediation under paragraph (1), which decision shall be final and not appealable. Notice of such determination shall be given in writing to all affected parties.*

*(iii) If the mediator determines that the dispute meets the threshold conditions of paragraph (1), a mediation shall be commenced in accordance with procedures established under guidelines adopted by the department. The mediation efforts shall be completed no later than 30 days following the notice that the dispute has met the threshold requirement of paragraph (1), unless the time period is extended by mutual agreement of the parties to the mediation. The parties shall have any official authorized to settle the matter on their behalf available at the mediation. At the discretion of the mediator, the mediation may be held via telephonic communication or in person.*

*(iv) The mediation sessions shall be closed to the public and shall not be subject to the requirements of 65 Pa.C.S. Ch. 7.*

*(v) No offers or statements made in a mediation session, excluding the final written settlement agreement, if any, shall be admissible as evidence in any subsequent judicial or administrative proceedings in accordance with the provisions of 42 Pa.C.S. § 5949 (relating to confidential mediation communications and documents).*



(vi) *If a settlement is reached during the mediation, the department shall prepare a written settlement agreement and obtain all necessary signatures of the parties within 30 days of the agreement of the parties to settle the issue. The settlement agreement shall be binding upon the parties to the agreement. Such settlement agreement shall be subject to the provisions of the Right-to-Know Law. Such agreements shall be admissible as evidence in any subsequent judicial or administrative proceedings in accordance with the provisions of the Pennsylvania Rules of Court, the Pennsylvania Rules of Evidence and 42 Pa.C.S. § 5949.*

(vii) *If the mediation has not resulted in a written agreement signed by the parties as provided in subparagraph (vi), the mediation shall be deemed to have been unsuccessful unless all parties and the department agree in writing to extend the mediation. The mediator shall have the right to determine that the mediation has been unsuccessful and to terminate the mediation if the parties have not executed a settlement agreement by the ending date of the extension, or any further extension agreeable to the affected parties and the mediator.*

(viii) *Costs incurred by the department for a mandatory mediation under this section shall be equitably assessed by the department against the parties to the mediation. The assessment of costs shall be final and not appealable.*

(3) *The department shall adopt guidelines to further provide for the mandatory and voluntary mediation processes in this subsection.*

(l) *Annual budget required.—*

(1) *Each tax collection committee shall adopt an annual budget providing for compensation of the tax officer and other expenses of operating the tax collection district.*

(2) *The expenses of operating the tax collection district shall be shared among and paid by all political subdivisions within the tax collection district that are represented by voting delegates on the tax collection committee and shall be weighted in direct proportion to income tax revenues collected in each participating political subdivision based on the political subdivision's most recent annual audit report required under this section.*

(m) *Committee establishment in counties with existing consolidated collection arrangements.—In any county in which, on the effective date of this section, all political subdivisions levying an income tax, including a county school district located partially outside of but contiguous to the county, are served by one existing tax bureau and that tax bureau is governed by a single governing entity created solely by the action of the school districts located wholly within and one or more partially outside of but contiguous to that county, such existing governing entity shall constitute the tax collection committee for that county and school district,*

*provided, a majority of the governing bodies of the political subdivisions served by such tax bureau and within the tax collection district as defined in section 504(c) adopt uniform resolutions on or before July 1, 2009, designating said governing entity as the county tax collection committee for purposes of this act. In the event such a majority is not achieved, the establishment of a tax collection committee for that county and such school district shall proceed as otherwise provided for in this section. The following apply:*

*(1) A tax collection committee established pursuant to this subsection shall not be subject to any of the following:*

*(i) Subsection (b).*

*(ii) Subsection (b.1).*

*(iii) Subsection (b.2).*

*(iv) Subsection (c).*

*(v) Subsection (d).*

*(vi) Subsection (e).*

*(vii) Subsection (f), except that the substance of bylaws utilized by such a tax collection committee shall address the subjects enumerated therein.*

*(viii) Subsection (l)(2).*

*(2) All of the following requirements shall be deemed to have been met without the necessity of further action by a tax collection committee established pursuant to this subsection:*

*(i) The initial adoption of bylaws otherwise required of a tax collection committee under subsection (a.1)(6).*

*(ii) The initial adoption of policies and procedures otherwise required of a tax collection committee under subsection (a.1)(7).*

*(3) In addition to the withdrawal options for political subdivisions under section 510(h), each political subdivision governed by a tax collection committee established pursuant to this subsection may, within the 90-day period ending November 15, 2013, and November 15 every fourth year thereafter, adopt and file with the department and the tax collection committee a resolution evidencing its desire to withdraw from governance by such tax collection committee as of January 1 of the second succeeding calendar year. The following apply:*

*(i) If a majority of the governing bodies of such political subdivisions adopt resolutions evidencing a desire to withdraw, a new tax collection committee shall be established in accordance with subparagraph (iii).*

*(ii) If a majority of the governing bodies of such political subdivisions fail to adopt resolutions evidencing a desire to withdraw from governance by the tax collection committee established pursuant to this subsection, such governance shall continue as before for all political subdivisions.*

(iii) *The department shall promulgate appropriate regulations governing the establishment of a new county tax collection committee necessitated by the action of political subdivisions under this paragraph in withdrawing from a tax collection committee established pursuant to this subsection. Among other things, such regulations shall provide for voting rights, quorum requirements, meeting requirements, meeting agendas, bylaw requirements and other items as provided for in this section and other parts of this act dealing with the initial establishment of tax collection committees, to the extent warranted, and shall establish the time frame and schedule within which any and all actions necessary to establish such a new tax collection committee are to be effectuated to ensure a timely and efficient transfer of tax collection and governance responsibilities.*

**Section 506. Tax officer.**

(a) *Collection and administration.—Notwithstanding any other provision of law to the contrary, income taxes shall be collected and administered by one tax officer in each tax collection district appointed under section 507(a). Two or more tax collection districts may appoint the same tax officer. If two or more tax collection districts form a joint tax collection committee, the joint tax collection committee shall appoint a single tax officer.*

(b) *Standards.—A tax collection committee may not appoint a tax officer that:*

- (1) has been convicted of a felony involving fraud, extortion or dishonesty in any jurisdiction;*
- (2) has engaged in conduct which significantly adversely reflects on the applicant's credibility, honesty or integrity;*
- (3) is unable to obtain the bond required by section 509(d);*
- (4) has not satisfied the mandatory education requirements under section 508(e); or*
- (5) does not meet the qualifications and requirements established by the department under section 508(f).*

**Section 507. Appointment of tax officer.**

(a) *Appointment.—By September 15, 2010, each tax collection committee shall appoint a tax officer by resolution and shall notify the department of the appointment, including the tax officer's name, address and telephone number and any other information required by the department within ten days of the appointment. The name, telephone number and address of the tax officer appointed shall be added to the official register and shall be effective for the assessment, collection and administration of income taxes levied, imposed and collected in fiscal years beginning on and after January 1, 2012. If the position of tax officer becomes vacant, the tax collection committee shall appoint a new tax officer by resolution.*

**(b) Court selection.—**

**(1) If a tax collection committee has not appointed a tax officer under subsection (a) or if a tax officer ceases to hold office and a successor has not been appointed within 30 days of the vacancy, the tax collection committee shall immediately notify the department and shall submit the names of at least two nominees for the position of tax officer to the court of common pleas in the county in which the tax collection district is located. The court shall select a tax officer from among the nominees submitted by the tax collection committee.**

**(2) If the tax collection committee fails to submit nominees in accordance with this subsection, any political subdivision within the tax collection district may, after notifying the department, petition the court to select a tax officer. The court may provide for other persons to submit nominations for the position of tax officer. The court may select a tax officer from among the nominees.**

**(3) In the event that a tax officer is to be selected by the court under this subsection, the department shall inform the court of the time frame by which an appointment of a tax officer is needed and of upcoming deadlines which the tax officer must meet in order to timely fulfill the duties of appointment.**

**(4) Upon the selection of a tax officer by the court, the tax collection committee shall appoint the person selected.**

**(c) Compensation.—The tax officer shall receive reasonable compensation for services and expenses as determined by the tax collection committee. At the discretion of the tax collection committee, the tax officer may be permitted to withhold the amount of the tax officer's compensation from income taxes collected, if the monthly reports required by section 509(b) submitted by the tax officer include an accounting for all compensation withheld.**

**(d) Written agreement.—Except when a tax collection committee establishes a tax bureau under section 505(a.2)(2), all appointments of a tax officer shall be made pursuant to a written agreement between the tax officer and the tax collection committee. The agreement shall be approved by the committee by resolution.**

**(e) Eligibility of existing tax collection entities.—Notwithstanding any provision of law to the contrary, it shall not be regarded as a conflict of interest for a delegate or alternate to participate in discussions and voting of the tax collection committee relating to the appointment of a tax officer, solely on the basis that the delegate or alternate also is an employee or member of the governing body of an existing tax bureau or other public tax collection entity which is under consideration for appointment as the tax officer or which has submitted a proposal for appointment as tax officer, or is an employee or member of the governing body of a political subdivision participating in such an existing tax bureau or other public tax collection entity.**

**Section 508. Powers and duties of the department.**

*(a) Additional powers.—In addition to the powers and duties provided for in this act, the department, in consultation with the Department of Revenue, shall prescribe standardized forms, reports, notices, returns and schedules and shall promulgate regulations as necessary to carry out the provisions of this act.*

*(b) Temporary regulations.—The department may promulgate temporary regulations, for a period of two years, as necessary, which shall be published in the Pennsylvania Bulletin. The temporary regulations promulgated by the department shall expire no later than three years following the effective date of this section or upon promulgation of regulations as generally provided by law. The temporary regulations shall not be subject to any of the following:*

*(1) Sections 201, 202, 203 and 204 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.*

*(2) The act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.*

*(c) Interim regulations.—Until promulgation of the temporary or permanent regulations under this section, rules and regulations in use by tax officers under the former Division V(c) of section 13 shall remain valid.*

*(d) Departmental study.—*

*(1) Immediately upon the earliest effective date of this section, the department shall commence a study of existing local earned income tax collection methods and practices within this Commonwealth, with particular attention to the practices and methods of previously existing cooperative collection bureaus established by one or more political subdivisions, for the purpose of identifying, collecting and comparing those practices, methods, structures, procedures, regulations, software, information systems, governance alternatives, risk management strategies and other characteristics that appear to promote the greatest likelihood of effectiveness, cost efficiency, loss prevention and willing intergovernmental cooperation.*

*(2) No later than December 31, 2009, the department shall furnish each tax collection committee a report of the findings and recommendations resulting from the study, including sample bylaws, procedures, regulations, forms, agreements, requests for proposals for the selection of tax officers, requests for proposals for the procurement of software systems and other critical systems and other appropriate samples.*

*(3) As a part of the study, the department shall also investigate and report upon the feasibility of contracting on a Statewide basis for the development and procurement of appropriate software systems that may be adopted and purchased by county tax collection districts or their*

*appointed tax officers through the Commonwealth's cooperative purchasing programs.*

*(4) Nothing in this subsection shall be construed to authorize the department to compel the disclosure of information that is confidential, proprietary or a trade secret.*

*(e) Mandatory education for tax officers.—Persons and entities seeking or maintaining appointment as tax officers shall complete mandatory education as a prerequisite for their appointment and, for continuing appointment, not less than annually. The department shall provide the mandatory education and shall adopt regulations, guidelines and procedures for the mandatory education sufficient to meet the requirements of this act.*

*(f) Establishment of qualifications and requirements.—*

*(1) The department shall, by regulation, establish the qualifications and requirements a tax officer must meet prior to being appointed and must meet for continuing appointment.*

*(2) A tax collection committee may establish additional qualifications and requirements a tax officer must meet prior to being appointed and must meet for continuing appointment.*

**Section 509. Powers and duties of tax officer.**

*(a) Tax collection.—In addition to any other power and duty conferred upon a tax officer in this act, it shall be the duty of the tax officer:*

*(1) To collect, reconcile, administer and enforce income taxes imposed on residents and nonresidents of each political subdivision included in the tax collection district.*

*(2) To receive and distribute income taxes and to enforce withholding by employers located in the tax collection district.*

*(3) To receive income taxes distributed by tax officers for other tax collection districts.*

*(4) To distribute income taxes to political subdivisions as required by section 513.*

*(5) To comply with all regulations adopted by the department under this act and all resolutions, policies and procedures adopted by the tax collection committee.*

*(6) To invest all income taxes in the custody of the tax officer in authorized investments, subject to the approval of the tax collection committee. The tax officer shall observe the standard of care that would be observed by a prudent person dealing with property of another. For the purposes of this paragraph, the term "authorized investment" shall include all of the following:*

*(i) Short-term obligations of the United States Government or its agencies or instrumentalities which are backed by the full faith and credit of the United States or are rated in the highest category by a nationally recognized statistical rating organization.*

(ii) *Deposits in savings accounts, time deposits, share accounts or certificates of deposit of institutions, insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, or their successor agencies, to the extent that the accounts are insured and, for the amount above the insured maximum, that collateral, free from other liens, for the amount is pledged by the depository institution.*

(iii) *Deposits in investment pools established by the State Treasurer or established by local governments pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) and related statutes, provided that the investment pools are rated in the highest category by a nationally recognized statistical rating organization.*

(iv) *Repurchase agreements which are fully collateralized by obligations of the United States Government or its agencies or instrumentalities, which are free from other liens and backed by the full faith and credit of the United States or are rated in the highest category by a nationally recognized statistical rating organization.*

(7) *To distribute income generated from investments authorized under paragraph (6) as determined by the tax collection committee.*

(b) *Monthly reports.—The tax officer shall, within 20 days after the end of each month, provide a written report, on forms prescribed by the department, to the secretary of the tax collection committee and to the secretary of each political subdivision in the tax collection district for which taxes were collected during the previous month. The report shall include a breakdown of all income taxes, income generated from investments under subsection (a)(6), penalties, costs and other money received, collected, expended and distributed for each political subdivision served by the tax officer and of all money distributed to tax officers for other tax collection districts.*

(c) *Overpayments.—A tax officer shall refund, under 53 Pa.C.S. §§ 8425 (relating to refunds of overpayments) and 8426 (relating to interest on overpayment), on petition of and proof by the taxpayer, income taxes paid in excess of income taxes rightfully due.*

(d) *Bonds.—Prior to initiating any official duties, each tax officer shall give and acknowledge a bond to the appointing tax collection committee as follows:*

(1) *The tax collection committee shall fix the amount of the bond in an amount equal to the maximum amount of taxes that may be in the possession of the tax officer at any given time or an amount sufficient, in combination with fiscal controls, insurance and other risk management and loss prevention measures used by the tax collection district, to secure the financial responsibility of the tax officer in accordance with guidelines adopted by the department. The amount of*

*the bond shall be revised annually by the tax collection committee based upon the annual examination required under section 505(h).*

*(2) Each bond shall be joint and several, with one or more corporate sureties, which shall be surety companies authorized to do business in this Commonwealth and licensed by the Insurance Department.*

*(3) Each bond shall be conditioned upon the completion of all of the following by the tax officer's employees and appointees:*

*(i) The faithful execution of all duties required of the tax officer.*

*(ii) The just and faithful accounting or payment over of all moneys and balances paid to, received or held by the tax officer by virtue of the office in accordance with law.*

*(iii) The delivery of all tax records or other official items held in right as the tax officer to the tax officer's successor in office.*

*(4) Each bond shall be taken in the name of the tax collection district and shall be for the use of the tax collection district appointing the tax officer, and for the use of any other political subdivision or tax collection district for which income taxes shall be collected or distributed in case of a breach of any conditions of the bond by the acts or neglect of the principal on the bond.*

*(5) A tax collection committee or any political subdivision may sue upon the bond for the payment or distribution of income taxes.*

*(6) Each bond shall contain the name of the surety company bound on the bond.*

*(7) The tax collection committee may, upon cause shown and due notice to the tax officer and the tax officer's sureties, require or allow the substitution or the addition of a surety company acceptable to the tax collection committee for the purpose of making the bond sufficient in amount, without releasing the sureties first approved from any accrued liability or previous action on the bond.*

*(8) The tax collection committee shall designate the custodian of the bond.*

*(9) The tax officer shall file copies of all bonds in effect with each political subdivision in the tax collection district.*

*(10) A copy of all bonds in effect shall be made available upon request and at no cost to the department or to a tax collection district or political subdivision seeking payment or distribution of income taxes authorized by this act.*

*(e) Records.—It shall be the duty of the tax officer to keep a record showing the amount of income taxes received from each taxpayer or other tax officer, the date of receipt, the amount and date of all other moneys received or distributed and any other information required by the department. All tax records shall be the property of the political subdivision and the tax collection district in which the taxes were collected. The tax collection district and tax officer shall retain all tax records as directed by the tax collection committee and, when applicable, in*



*accordance with retention and disposition schedules established by the Local Government Records Committee of the Pennsylvania Historical and Museum Commission under 53 Pa.C.S. Ch. 13 Subch. F (relating to records). Tax records under this subsection may be retained electronically as permitted by law.*

**(f) Employer and taxpayer audits.—**

*(1) In order to verify the accuracy of any income tax declaration or return or, if no declaration or return was filed, to ascertain the income tax due, the tax officer and the tax officer's designated employees may examine or audit the records pertaining to income taxes due of any of the following:*

*(i) An employer.*

*(ii) A taxpayer.*

*(iii) A person whom the tax officer reasonably believes to be an employer or taxpayer.*

*(2) The examination or audit conducted by the tax officer and the tax officer's designated employees shall conform to the requirements set forth in 53 Pa.C.S. Ch. 84 Subch. C (relating to local taxpayers bill of rights).*

*(3) Every employer and taxpayer or other person whom the tax officer reasonably believes to be an employer or taxpayer shall provide to the tax officer and the tax officer's designated employees the means, facilities and opportunity for the examination and investigation authorized under paragraph (1).*

*(4) For purposes of this subsection, the term "records" shall include any books, papers and relevant Federal or State tax returns and accompanying schedules, or supporting documentation for any income taxable under this act.*

**(g) Exchange of information.—**

*(1) The tax officer of each tax collection district shall ensure that the tax collection district enters into an agreement with the Department of Revenue for the exchange of information as necessary for the collection of income taxes.*

*(2) The Department of Revenue may enter into agreements with each tax collection district and shall establish procedures under which tax collection, filing and other taxpayer and locality information in its custody will be made available to tax officers for purposes of collection, reconciliation and enforcement no later than one year after the deadline for filing returns for the tax year in question.*

**(h) Actions for collection of income taxes.—***The tax officer may file an action in the name of a political subdivision within the tax collection district for the recovery of income taxes due to the political subdivision and unpaid. Nothing in this subsection shall affect the authority of a political subdivision to file an action in its own name for collection of income taxes under this chapter. This subsection shall not be construed to limit a tax*

*officer, a tax collection district or political subdivision from recovering delinquent income taxes by any other means provided by this act. Actions for collection of income taxes shall be subject to the following:*

*(1) Except as set forth in paragraph (2) or (4), an action brought to recover income taxes must be commenced within three years of the later of the date:*

*(i) the income taxes are due;*

*(ii) the declaration or return has been filed; or*

*(iii) of a redetermination of compensation or net profits by the Department of Revenue.*

*(2) If there is substantial understatement of income tax liability of 25% or more and there is no fraud, an action must be commenced within six years.*

*(3) Except as set forth in paragraph (4)(ii), (iii) or (iv), an action by a tax officer for recovery of an erroneous refund must be commenced as follows:*

*(i) Except as set forth in subparagraph (ii), within two years after making the refund.*

*(ii) If it appears that any part of the refund was induced by fraud or misrepresentation of material fact, within five years after making the refund.*

*(4) There is no limitation of action if any of the following apply:*

*(i) A taxpayer fails to file a declaration or return required under this act.*

*(ii) An examination of a declaration or return or of other evidence in the possession of the tax officer relating to the declaration or return reveals a fraudulent evasion of income taxes.*

*(iii) An employer has deducted income taxes under section 512 and has failed to pay the amount deducted to the tax officer.*

*(iv) An employer has intentionally failed to make deductions required by this act.*

*(i) Interest and penalties.—*

*(1) Except as provided in paragraph (2), if the income tax is not paid when due, interest at the rate the taxpayer is required to pay to the Commonwealth under section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, on the amount of the income tax, and an additional penalty of 1% of the amount of the unpaid income tax for each month or fraction of a month during which the income tax remains unpaid shall be added and collected but the amount shall not exceed 15% in the aggregate. Where an action is brought for the recovery of the income tax, the taxpayer liable for the income tax shall, in addition, be liable for the costs of collection, interest and penalties.*

*(2) The department may establish conditions under which a tax officer, with the concurrence of the tax collection committee, may abate interest or penalties that would otherwise be imposed for the*

*nonreporting or underreporting of income tax liabilities or for the nonpayment of income taxes previously imposed and due if the taxpayer voluntarily files delinquent returns and pays the income taxes in full.*

*(3) The provisions of paragraph (2) shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under this chapter, or prevent the commencement or further prosecution of any proceedings by the proper authorities for violations of this act. No proceedings shall, however, be commenced on the basis of delinquent returns filed pursuant to subsection (h) if the returns are determined to be substantially true and correct and the income taxes are paid in full within the prescribed time.*

*(j) Fines and penalties for violations.—*

*(1) Any taxpayer who fails, neglects or refuses to make any declaration or return required by this chapter, any employer who fails, neglects or refuses to register, keep or supply records or returns required by section 512 or to pay the income tax deducted from employees, or fails, neglects or refuses to deduct or withhold the income tax from employees, any taxpayer or employer who refuses to permit the tax officer appointed by a tax collection committee or an employee or agent of the tax officer to examine books, records and papers, and any taxpayer or employer who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of income in order to avoid the payment of income taxes shall, upon conviction thereof, be sentenced to pay a fine of not more than \$2,500 for each offense and reasonable costs, and in default of payment of said fine and costs, to imprisonment for not more than six months.*

*(2) Any employer required under this chapter to collect, account for and distribute income taxes who willfully fails to collect or truthfully account for and distribute income taxes, 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) The penalties imposed under this subsection shall be in addition to any other costs and penalties imposed by this act.*

*(4) The failure of any person to obtain forms required for making the declaration or returns required by this act shall not excuse the person from making the declaration or return.*

*(k) Collection.—In addition to the powers and duties enumerated in this section, when designated by the tax collection committee, a tax officer may collect other taxes levied pursuant to this act, the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, or other statutory law.*

*Section 510. Fines and penalties against tax officers.*

*(a) Distribution of nonresident taxes.—A tax collection district or a political subdivision that brings an action under subsection (e) with respect to distribution of income taxes under section 513 may seek equitable relief from a tax officer, including an accounting of all undistributed income taxes and monetary damages, in the form of recovery of the income taxes not previously distributed plus interest calculated from the date that the income taxes should have been distributed. In addition, the court may impose a civil penalty not to exceed \$2,500 for each quarter for which income taxes were not distributed in accordance with section 513, plus reasonable costs and attorney fees. If a tax officer fails to distribute income taxes to the appropriate political subdivision as required under section 513 for four consecutive tax quarters, the court may impose a civil penalty not to exceed \$5,000. In addition, the court may impose a fine not to exceed \$100 per day for every day past the deadline that a tax officer does not respond to a claim under section 513(b).*

*(b) Monthly reports and audits of income taxes.—If a tax officer fails to submit the report required under section 509(b), a tax collection district or a political subdivision entitled to receive the report may bring an action in the court of common pleas of the county in which the tax collection district is primarily located. The court may impose a civil penalty of \$20 a day for each day that the report is overdue, not to exceed \$500. If an examination submitted under section 505(h) includes any findings of noncompliance, the court may impose an additional civil penalty of not less than \$500 but not more than \$2,500.*

*(c) Failure of duty.—An action may be brought against the tax officer to compel the performance of duties required by this chapter or imposed by regulations adopted pursuant to this chapter, including the duty to deliver all tax records and other official items held in right as tax officer to the tax officer's successor. Upon a finding of failure to perform a duty, the court may impose a penalty not to exceed \$5,000, and the tax officer may be held liable for the cost of reproducing tax records if they are lost or cannot be delivered.*

*(d) Other violations.—A tax officer who violates any other provision of this act shall be subject to a civil penalty of up to \$2,500 for each violation.*

*(e) Actions against a tax officer.—An action against a tax officer for a violation of this chapter may be brought by a tax collection district or a political subdivision for which the tax officer collects income taxes, a political subdivision or tax collection committee owed income taxes by the tax officer or by a surety.*

*(f) Rescinded appointment.—*

*(1) A tax collection committee shall temporarily remove a tax officer if a criminal action is commenced against the tax officer for an offense which would constitute a violation of the standards of office under section 506(b). If the tax officer is convicted or pleads guilty or nolo*

*contendere in the action, the tax collection committee shall rescind the appointment and remove the tax officer permanently.*

*(2) A tax collection committee may remove or rescind the appointment of a tax officer where the tax officer or an employee or agent of the tax officer violates the provisions under section 514(b).*

*(3) A tax collection committee may remove or rescind the appointment of a tax officer for cause.*

*(4) A tax collection committee may not retain a tax officer who has been penalized under subsection (a), (b), (c) or (d) more than three times or who fails to satisfy the requirements under section 506.*

*(g) Interpretation.—A tax officer shall not be considered a debt collector for purposes of the act of March 28, 2000 (P.L.23, No.7), known as the Fair Credit Extension Uniformity Act. Except as otherwise authorized in this act, a tax officer shall be subject to the restrictions and prohibitions imposed on creditors. Notwithstanding the provisions of the Fair Credit Extension Uniformity Act, this act shall supersede any restrictions and prohibitions on creditors otherwise applicable under the Fair Credit Extension Uniformity Act.*

*(h) Withdrawal from tax collection district.—*

*(1) In an action brought by a political subdivision under this section after January 1, 2014, the court may, in addition to other available remedies, grant a request by the political subdivision to withdraw from the tax collection district for good cause, provided the court determines, after hearing, that all of the following conditions exist:*

*(i) The political subdivision has suffered loss in income tax revenues that is directly and primarily attributable to the willful and continued failure of the tax officer or tax collection committee to comply with the provisions of this act.*

*(ii) The tax collection committee has failed to take reasonable measures to correct the deficiencies in the performance of the tax officer and otherwise assure compliance with the requirements of this act.*

*(iii) The political subdivision and the tax collection committee have engaged in good faith mediation before a special master appointed by the court, but nonetheless have failed to reach agreement about alternative corrective measures in lieu of withdrawal of the political subdivision from the tax collection district.*

*(iv) Other relief available that could be ordered by the court would not be adequate to provide a reasonable prospect of compliance by the tax officer and tax collection committee with the requirements of this act, and that withdrawal of the political subdivision from the tax collection district is otherwise in the best interests of the political subdivision, taxpayers and employers.*

(2) (i) *In the event the court grants a request by a political subdivision under this section to withdraw from the tax collection district in which it is located, the governing body of the political subdivision may withdraw by adopting a resolution to that effect and appointing a tax officer to collect the income tax levied by that political subdivision, effective for the next calendar year beginning at least six months after the adoption of such resolution.*

(ii) *With respect to the income tax levied by that political subdivision, a tax officer appointed pursuant to this paragraph shall have the same powers and duties as a tax officer appointed by a tax collection district and all other requirements of this act pertaining to the functions and qualifications of tax collection districts and tax officers, and the related obligations of employers and taxpayers shall apply equally to the political subdivision, its governing body and a tax officer appointed by that political subdivision.*

**Section 511. Tax registers.**

(a) *Requirement.—The department shall maintain a tax register and an official register. All of the following shall apply:*

(1) *The department shall maintain a tax register on the department's Internet website. Information for the tax register shall be furnished by each county and each political subdivision to the department as prescribed by the department. The department shall continuously update the tax register.*

(2) *As part of the tax register under paragraph (1), the department shall maintain an official register. The requirement to maintain an official register in accordance with this section shall supersede the requirements for an official register in any act.*

(3) *The official register shall be organized by municipality and shall list:*

(i) *Each municipality and coterminous school district.*

(ii) *The effective income tax rate on taxpayers who reside in the municipality.*

(iii) *The effective income tax rate on taxpayers who reside in the school district.*

(iv) *The combined municipal and school district income tax rate on taxpayers residing in each municipality.*

(v) *The income tax rate on taxpayers working within the municipality.*

(vi) *Whether an income tax is a personal income tax levied under the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, or any other act.*

(vii) *The effective emergency and municipal services tax rate on taxpayers working within the municipality.*

(viii) *The effective emergency and municipal services tax rate on taxpayers working within the school district.*

*(ix) The combined municipal and school district emergency and municipal services tax rate.*

*(x) The amount of any other withholding tax.*

*(xi) The name, telephone number, address, e-mail and Internet address, where available, of the tax officer responsible for administering the collection of the tax.*

*(xii) Any other information deemed necessary by the department.*

*(4) Each year the department shall update and officially release withholding tax rates on the official register on June 15 and December 15. Tax rates released on June 15 shall become effective July 1. Tax rates released on December 15 shall become effective January 1 of the following year. The department may revise the notification, official release and effective dates of the register for good cause. Six months prior to the revision, the department shall notify each affected political subdivision of the revision and shall publish notice of the revision in the Pennsylvania Bulletin.*

*(5) Information for the official register shall be furnished by each political subdivision to the department as prescribed by the department and shall include a copy of the ordinance or resolution enacting, repealing or changing the tax. The department shall be notified of changes to the official register as follows:*

*(i) New withholding tax enactments, repeals and changes shall be received by the department no later than June 1 to require withholding of a new tax, withholding at a new rate or to suspend withholding of such tax effective July 1 of that year. All new withholding tax enactments, repeals and changes received by the department by June 1 shall be officially released by the department June 15 and become effective July 1. Failure of the department to receive information by June 1 from political subdivisions regarding current withholding tax rates, new withholding tax enactments, repeals and changes shall be construed by the department to mean that the information contained in the previous December 15 release of the official register is still in force. Information received by the department after June 1 but before December 1 shall be officially released on December 15.*

*(ii) New withholding tax enactments, repeals and changes shall be received by the department no later than December 1 to require withholding of a new tax, withholding at a new rate or to suspend withholding of such tax effective January 1 of the following year. All new withholding tax enactments, repeals and changes received by the department by December 1 shall be officially released by the department on December 15 and become effective January 1 of the following year. Failure of the department to receive information by December 1 from political subdivisions regarding current withholding tax rates, new withholding tax enactments, repeals and*

*changes shall be construed by the department to mean that the information contained in the previous June 15 release of the official register is still in force. Information received by the department after December 1 but before June 1 shall be officially released on June 15.*

*(6) (i) Employers shall not be required to deduct from compensation of their employees or make reports of compensation in connection with any withholding tax that is not released on the official register as of June 15 and December 15 of each year as provided in paragraphs (4) and (5), unless the political subdivision imposing the tax has provided written notice to the employer of the tax or tax rate and the withholding requirement.*

*(ii) Notwithstanding any law to the contrary, no political subdivision or tax officer may require any employer to deduct a withholding tax at a rate or amount that is not released on the official register, unless the political subdivision imposing the tax has provided written notice to the employer of the tax or tax rate and the withholding requirement.*

*(iii) The provisions of this paragraph shall not affect the liability of any taxpayer for withholding taxes lawfully imposed under this act.*

*(7) An employer may withhold at the most recently available rate on the tax register even if such rate is different than the tax rate released on the official register as provided in paragraphs (4) and (5), provided that an employer shall not be required to withhold at a tax rate that is not released on the official register, unless the political subdivision imposing the tax has provided written notice to the employer of the current tax rate.*

*(8) No employer shall be held liable for failure to withhold an income tax from an employee if the failure to withhold the income tax arises from incorrect information submitted by the employee as to the employee's place of residence.*

*(9) No employer shall be held liable for failure to withhold the emergency and municipal services tax or for the payment of tax money withheld to a tax officer if the failure to withhold the taxes arises from incorrect information submitted by the employee as to the employee's place of employment, the employee's principal office or where the employee is principally employed.*

*(b) Definition.—As used in this section, notwithstanding section 501, the terms "income tax" and "withholding tax" include a tax assessed on the income of a taxpayer and levied by a municipality under the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act. Section 512. Withholding and remittance.*



*For taxable years commencing on and after January 1, 2012, or earlier taxable years if specified by a tax collection district, income taxes shall be withheld, remitted and reported as follows:*

*(1) Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within 15 days after becoming an employer, register with the tax officer the name and address of the employer and such other information as the department may require.*

*(2) An employer shall require each new employee to complete a certificate of residency form, which shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4). An employer shall also require any employee who changes their address or domicile to complete a certificate of residency form. Upon request, certificate of residency forms shall be provided by the department. The certificate of residency form shall provide information to help identify the political subdivisions where an employee lives and works.*

*(3) Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district that employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall, at the time of payment, deduct from the compensation due each employee employed at such place of business the greater of the employee's resident tax or the employee's nonresident tax as released in the official register under section 511.*

*(4) Except as set forth in paragraph (5), within 30 days following the end of each calendar quarter, every employer shall file a quarterly return and pay the amount of income taxes deducted during the preceding calendar quarter to the tax officer for the place of employment of each employee. The form shall show the name, address and Social Security number of each employee, the compensation of the employee during the preceding three-month period, the income tax deducted from the employee, the political subdivisions imposing the income tax upon the employee, the total compensation of all employees during the preceding calendar quarter, the total income tax deducted from the employees and paid with the return and any other information prescribed by the department.*

*(5) Notwithstanding paragraph (4), the provisions of this paragraph shall apply if an 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 paragraph (4) and pay the total amount of income taxes deducted 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 income taxes 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 before filing its first combined return or making its first combined payment. This paragraph shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.*

*(6) Any employer who, for two of the preceding four quarterly periods, has failed to deduct the proper income tax, or any part of the income tax, or has failed to pay over the proper amount of income tax as required by paragraph (3) to the tax collection district, may be required by the tax officer to file returns and pay the income tax monthly. In such cases, payments of income tax shall be made to the tax officer on or before the last day of the month succeeding the month for which the income tax was withheld.*

*(7) On or before February 28 of the succeeding year, every employer shall file with the tax officer where income taxes have been deducted and remitted pursuant to paragraph (3):*

*(i) An annual return showing, for the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of compensation paid, the total amount of income tax deducted, the total amount of income tax paid to the tax officer and any other information prescribed by the department.*

*(ii) An individual withholding statement, which may be integrated with the Federal Wage and Tax Statement (Form W-2), 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 address and Social Security number, the amount of compensation paid to the employee during the period, the amount of income tax deducted, the amount of income tax paid to the tax officer, the numerical code prescribed by the department representing the tax collection district where the payments required by paragraphs (4) and (5) were remitted and any other information required by the department. Every employer shall furnish one copy of the individual withholding statement to the employee for whom it is filed.*

*(8) Any employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file returns and withholding statements required under this section and pay the income tax due.*

*(9) Except as otherwise provided in section 511, an employer who willfully or negligently fails or omits to make the deductions required by this subsection shall be liable for payment of income taxes which the employer was required to withhold to the extent that the income 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 income tax or from complying with the requirements for filing of declarations and returns.*

**Section 513. Distribution of income taxes.**

*(a) General rule.—Subject to subsection (b), all of the following apply:*

*(1) Unless otherwise agreed to or required by the tax collection committee, distribution of income taxes from a tax officer to political subdivisions within the tax collection district or to other tax collection districts shall be as follows:*

*(i) Income taxes received from employers prior to April 1, 2013, under section 512(4) shall be distributed within 60 days of the later of:*

*(A) receipt; or*

*(B) the deadline for payment under section 512(4).*

*(ii) Income taxes received from employers on or after April 1, 2013, under section 512(4) shall be distributed within 30 days of the later of:*

*(A) receipt; or*

*(B) the deadline for payment under section 512(4).*

*(iii) Income taxes received from employers under section 512(5) shall be distributed within 30 days of the last day of the month following receipt.*

*(iv) Income taxes received from taxpayers and other tax collection districts prior to April 1, 2013, shall be distributed within 60 days of receipt.*

*(v) Income taxes received from taxpayers and other tax collection districts on or after April 1, 2013, shall be distributed within 30 days of receipt.*

*(2) Income taxes received from employers, taxpayers or other tax collection districts shall be distributed based on the information submitted by the employers, taxpayers or tax collection districts. It shall not be permissible to base the distribution of income taxes on any method not expressly authorized by act of the General Assembly.*

*(3) A tax officer shall maintain a record of all income taxes distributed under this section, which shall include all of the information required in the reports under section 512(4) and (5), the date of distribution, the political subdivision or tax officer to which the income taxes are distributed and any other information required by the department. The record shall be provided to another tax collection district at the time of distribution.*

*(4) A tax officer who, within two years after receiving an income tax payment after reasonable efforts meeting conditions established by the tax collection committee, cannot identify the political subdivision*

*entitled to the income tax payment shall make payment to the municipality in which the income tax was collected.*

*(b) Other tax collection districts.—In addition to subsection (a), for distribution of income taxes to other tax collection districts, the following shall apply:*

*(1) If nonresident taxes are not distributed to the appropriate tax officer as required under subsection (a)(1), a tax officer may make a claim for income taxes attributable to residents of the tax collection district served by that tax officer. The tax officer for the tax collection district against which a claim is made shall, within 30 days:*

*(i) pay the claim if it is undisputed; or*

*(ii) respond in writing stating the reasons why the claim cannot be paid.*

*(2) If the tax officer for the tax collection district against which the claim is made does not act under paragraph (1)(i) or (ii), the tax officer making the claim may bring an action in the court of common pleas in the county in which the tax collection district with the claim is primarily located for both the amount of the claim and interest at the rate provided for in 53 Pa.C.S. § 8426 (relating to interest on overpayment) from the date which the income taxes were received from the taxpayer, employer or other tax officer. Notwithstanding any other law to the contrary, an action under this paragraph must be brought within seven years after the claim is made.*

*(c) Codes.—Employers and tax officers shall use political subdivision and tax collection district codes prescribed by the department.*

*(d) Fee prohibition.—No tax officer, political subdivision or tax collection district shall be required to pay a fee or commission to another tax collection district on account of income taxes distributed under this section.*

#### *Section 514. Confidentiality.*

*(a) General rule.—Any information gained by a tax officer or any employee or agent of a tax officer or of the tax collection committee as a result of any declarations, returns, investigations, hearings or verifications shall be confidential tax information.*

*(b) Prohibited conduct.—It shall be unlawful, except for official purposes or as provided by law, for the Commonwealth, any political subdivision, tax collection committee member, tax officer or employee or agent of a tax officer or tax collection committee to do any of the following:*

*(1) Divulge or make known confidential tax information.*

*(2) Permit confidential tax information or a book containing an abstract or particulars of the abstract to be seen or examined by any person.*

*(3) Print, publish or otherwise make known any confidential tax information.*

*(c) Penalties.—A person who violates subsection (b) commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$2,500 or to imprisonment for not more than one year, or both. If the offender is a member of the tax collection committee, the member shall be removed from the tax collection committee. If the offender is an employee of a tax collection committee or a political subdivision, the employee shall be discharged from employment. The offender shall pay the costs of prosecution.*

**Section 515. Transition.**

*(a) Fines and penalties against tax officers.—*

*(1) A political subdivision which brings an action under former Division V(h) of section 13 may seek equitable relief from a tax officer, including an accounting of all undistributed income taxes and monetary damages, in the form of recovery of the income taxes not previously distributed. In addition, the court may impose a civil penalty not to exceed \$2,500 for each quarter for which income taxes were not distributed in accordance with former Division V(h) of section 13, plus reasonable costs and attorney fees.*

*(2) If a tax officer fails to distribute income taxes to the appropriate political subdivision as required under former Division V(h) of section 13 for four consecutive quarters, the court may impose a civil penalty not to exceed \$5,000.*

*(3) An action may be brought against the tax officer to compel the performance of duties required by Chapter 3 or former section 13 or imposed by regulations adopted pursuant to this chapter, including the duty to deliver all tax records and other official items held in right as tax officer to the tax officer's successor. Upon a finding of failure to perform a duty, the court may impose a penalty not to exceed \$5,000, and the tax officer may be held liable for the cost or reproducing tax records if they are lost or cannot be delivered.*

*(4) An Article XIII tax officer who violates any other provision of this section or former section 13 shall be subject to a civil penalty of up to \$2,500 for each violation.*

*(5) An action against an Article XIII tax officer for a violation of this act may be brought by a political subdivision for which the Article XIII tax officer collects income taxes, a political subdivision owed income taxes by the Article XIII tax officer or by a surety that is liable because of the violation.*

*(6) A political subdivision shall remove or rescind the appointment of an Article XIII tax officer who has been penalized more than three times under paragraph (1), (2), (3) or (4).*

*(b) Transition.—*

*(1) (i) The governing body of each political subdivision which imposed an income tax prior to January 1, 2011, shall do all of the following:*

(A) Determine by November 1, 2010, whether the Article XIII tax officer or the newly appointed tax officer shall collect 2011 income taxes.

(B) Notify the department by December 1, 2010, of the determination under clause (A) in accordance with section 511(a)(5).

(ii) Every employer shall remit 2011 income taxes and file the quarterly and annual reports required by former Division IV(b) and (c) of section 13 to either the Article XIII tax officer or the newly appointed tax officer, as determined by the appropriate political subdivision and released on the official register in accordance with section 511.

(2) By July 1, 2011, each tax collection committee shall develop a plan to transition from the provisions of former section 13 to the provisions of sections 512 and 513, and from the Article XIII tax officer to the newly appointed tax officer for 2012 income taxes.

(3) The Article XIII tax officer shall deliver all tax records to the political subdivision and the newly appointed tax officer by June 30, 2012, unless otherwise agreed to by the political subdivision and the newly appointed tax officer.

(4) Any delinquent income taxes or reports from 2011, or previous years which have not been remitted or provided to the Article XIII tax officer by June 30, 2012, shall become the responsibility of the newly appointed tax officer. A political subdivision which has made other provisions for the collection of delinquent income taxes or reports for 2011 or previous years shall notify the newly appointed tax officer.

(5) Beginning with the first quarter of 2012, employers shall remit income taxes withheld and make reports as required by section 512 to the newly appointed tax officer.

(c) *Definitions.*—The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Newly appointed tax officer.” A tax officer appointed under section 507(a) responsible for the collection of 2012 income taxes.

Section 516. Regulatory conflict.

In the event of a conflict between a regulation under this chapter and a regulation under the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, in the area of tax collection, the regulation under this chapter shall prevail.

Section 517. Audit and evaluation.

(a) *General rule.*—Before 2017, the Legislative Budget and Finance Committee shall conduct an audit and evaluation of the impact of this chapter and consolidated collection of local income taxes. The committee shall consult with the Auditor General in the course of its audit and evaluation. The audit and evaluation shall:

(1) *Determine the extent to which income tax revenue losses have been minimized or eliminated by the implementation of uniform collection standards and a countywide income tax collection system.*

(2) *Determine whether consolidated collection and standardized withholding and remittance of local income taxes as required in section 512 has simplified the system, reduced fragmentation and reduced the burden of withholding, remitting and distributing the local income tax for employers.*

(3) *Determine if tax compliance is simpler, easier, fairer and less time-consuming for taxpayers.*

(4) *Determine whether the tax collection system under this chapter is more efficient than the prior system.*

(5) *Determine if tax collection committees are exercising their powers and duties under section 505 effectively.*

(6) *Determine the extent to which cooperation and coordination exists among tax officers and tax collection districts.*

(7) *Determine whether authorized investments under section 509(a)(6) and the bonding requirements under section 509(d) provide sufficient protection to income tax collections.*

(8) *Determine whether nonresident and resident taxes are being properly distributed among tax collection districts within this Commonwealth and to political subdivisions within each tax collection district.*

(9) *Determine whether the reporting, audit, accountability, transparency and oversight requirements for taxes collected, distributed and administered in this chapter are adequate and being met within and among tax collection districts.*

(10) *Determine if the appeals boards created under section 505(j) are impartial, fair and effective.*

(11) *Determine whether the penalties against tax officers under section 510 are effective and the extent to which tax officers are in compliance with the rules and regulations required by this chapter, and identify any tax officers that are in substantial noncompliance with these rules and regulations.*

(12) *Determine whether the agreements under section 509(g) have been approved by the Department of Revenue and each tax collection district, and that the exchange of information is reciprocal, timely and useful.*

(13) *Determine whether the interest, penalties and fines under section 509(i) and (j) are appropriate and adequate.*

(14) *Recommend needed improvements to the system.*

(b) *Filing requirement.—Copies of the audit findings of the Legislative Budget and Finance Committee under subsection (a) shall be filed with the chair of the Finance Committee of the Senate, the chair of the Finance*

*Committee of the House of Representatives, the department, the Auditor General and with each tax collection committee.*

Section 24. The act is amended by adding a chapter heading to read:

**CHAPTER 7  
COLLECTION OF DELINQUENT TAXES**

Section 25. The act is amended by adding a section to read:

**Section 701. Definitions.**—*As used in this chapter:*

**“Business entity”** means 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.

**“Employer”** means a person, business entity or other entity, including the Commonwealth, its political subdivisions and instrumentalities and public authorities, employing one or more persons for a salary, wage, commission or other compensation.

**“Private agency”** means a business entity or person appointed as a tax collector by a political subdivision.

Section 26. Section 18 of the act is renumbered and amended to read:

Section [18] 701.1. Distress and Sale of Goods and Chattels of Taxpayer.—Every tax collector *under Chapter 3 and tax officer under Chapter 5* shall have power, in case of the neglect or refusal of any person[, copartnership, association, or corporation] *or business entity*, to make payment of the amount of any tax due [by him] *from the person or the business entity*, after two months from the date of the tax notice, to levy the amount of such tax, any penalty due thereon and costs, not exceeding costs and charges allowed constables for similar services by distress and sale of the goods and chattels of such delinquent, wherever situate or found, upon giving at least ten days’ public notice of such sale, by posting ten written or printed notices, and by one advertisement in a newspaper of general circulation published in the county.

No failure to demand or collect any taxes by distress and sale of goods and chattels shall invalidate any return made, or lien filed for nonpayment of taxes, or any tax sale for the collection of taxes.

Section 27. Sections 19 and 20 of the act, amended June 21, 2007 (P.L.13, No.7), are renumbered and amended to read:

Section [19] 702. Collection of Delinquent Per Capita, Occupation, Occupational Privilege, Emergency and Municipal Services, Local Services and [Earned] Income Taxes from Employers, etc.—The tax collector *under Chapter 3 and the tax officer under Chapter 5* shall demand, receive and collect from all [corporations, political subdivisions, associations, companies, firms or individuals,] *employers, other than the Commonwealth*, employing persons owing delinquent per capita, [or] occupation[,] *or occupational privilege[,]* taxes under Chapter 3 or



emergency and municipal services, local services and **[earned]** income taxes *under Chapter 5*, or whose spouse owes delinquent per capita, occupation[,]  
*or occupational privilege[,]* *taxes under Chapter 3 or emergency and municipal services, local services and [earned] income taxes under Chapter 5*, or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent per capita, occupation[,]  
*or occupational privilege[,]* *taxes under Chapter 3 or emergency and municipal services, local services and [earned] income taxes under Chapter 5*, or whose spouse owes delinquent per capita, occupation[,]  
*or occupational privilege[,]* *taxes under Chapter 3 or emergency and municipal services, local services and [earned] income taxes under Chapter 5*, upon the presentation of a written notice and demand certifying that the information contained therein is true and correct and containing the name of the taxable or the spouse thereof and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of any **[such corporation, political subdivision, association, company, firm or individual] employer** to deduct from the wages, commissions or earnings of such individual employes, then owing or that shall within sixty days thereafter become due, or from any unpaid commissions or earnings of any such taxable in **[its or his] the employer's** possession, or that shall within sixty days thereafter come into **[its or his] the employer's** possession, a sum sufficient to pay the respective amount of the delinquent **[per capita, occupation, occupational privilege, emergency and municipal services, local services and earned income]** taxes and costs, shown upon the written notice or demand, and to pay the same to the tax collector of the taxing district *or to the tax officer for the tax collection district* in which such delinquent tax was levied within sixty days after such notice shall have been given. No more than ten percent of the wages, commissions or earnings of the delinquent taxpayer or spouse thereof may be deducted at any one time for delinquent **[per capita, occupation, occupational privilege, emergency and municipal services, local services and earned income]** taxes and costs. **[Such corporation, political subdivision, association, firm or individual] The employer** shall be entitled to deduct from the moneys collected from each employe the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding two percent of the amount of money so collected and paid over to the tax collector *or tax officer*. Upon the failure of any **[such corporation, political subdivision, association, company, firm or individual] employer** to deduct the amount of such taxes or to pay the same over to the tax collector *or tax officer*, less the cost of bookkeeping involved in such transaction, as herein provided, within the time hereby required, **[such corporation, political subdivision, association, company, firm or individual] the employer** shall forfeit and pay the amount of such tax for each such taxable whose taxes are not withheld and paid over, or that are withheld and not paid over together with a penalty of ten percent added thereto, to be recovered by an action of assumpsit in a suit to be instituted by

the tax collector *or tax officer*, or by the proper authorities of the taxing district *or tax collection district*, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law. The tax collector *or tax officer* shall not proceed against a spouse or **[his] the spouse's** employer until **[he] the tax collector or tax officer** has pursued collection remedies against the delinquent taxpayer and his employer under this section.

Section **[20] 703**. Collection of Delinquent Per Capita, Occupation, Occupational Privilege, Emergency and Municipal Services, Local Services and **[Earned]** Income Taxes from the Commonwealth.—Upon presentation of a written notice and demand under oath or affirmation, to the State Treasurer or any other fiscal officer of the State, or its boards, authorities, agencies or commissions, it shall be the duty of the treasurer or officer to deduct from the wages then owing, or that shall within sixty days thereafter become due to any employe, a sum sufficient to pay the respective amount of the delinquent per capita, occupation[,], *or* occupational privilege, emergency and municipal services, local services *under Chapter 3* and **[earned]** income taxes *under Chapter 5* and costs shown on the written notice. The same shall be paid to the tax collector *or the tax officer of the tax collection district* of the taxing district in which said delinquent tax was levied within sixty days after such notice shall have been given.

Section 28. Section 20.1 of the act, added October 18, 1975 (P.L.425, No.118), is renumbered and amended to read:

Section **[20.1] 704**. Notice.—The tax collector *or tax officer* shall, at least fifteen days prior to the presentation of a written notice and demand to the State Treasurer or other fiscal officer of the State, or to any **[corporation, political subdivision, association, company or individual] employer**, notify the taxpayer owing the delinquent tax by registered or certified mail that a written notice and demand shall be presented to **[his] the taxpayer's** employer unless such tax is paid. The return receipt card for certified or registered mail shall be marked delivered to addressee only, and the cost of notification by certified or registered mail shall be added to the costs for collecting taxes.

Section 29. Section 21 of the act, amended November 30, 2004 (P.L.1520, No.192), is renumbered and amended to read:

Section **[21] 705**. Collection of Taxes by Suit.—**(a)** Each taxing district or person, public employe or private agency designated by the taxing district *under Chapter 3 and each tax officer under Chapter 5* shall have power to collect unpaid taxes from the persons owing such taxes by suit in assumpsit or other appropriate remedy. Upon each such judgment, execution may be issued without any stay or benefit of any exemption law. The right **[of each such taxing district]** to collect unpaid taxes under the provisions of this section shall not be affected by the fact that such taxes have been entered as liens in the office of the prothonotary, or the fact that the property against

which they were levied has been returned to the county commissioners for taxes for prior years.

*(b) (1) All taxes deducted and withheld from employes pursuant to this chapter or under cover of this chapter, plus any penalties and interest with respect thereto, shall constitute a trust fund for the political subdivision and shall be enforceable against such employer, his representative or any other person receiving any such fund.*

*(2) When suit is brought for the recovery of any such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.*

Section 30. Section 22 of the act is renumbered and amended to read:

Section [22] 706. Penalties.—Except as otherwise provided in the case of any tax levied and assessed upon [earned] income, any such political subdivision shall have power to prescribe and enforce reasonable penalties for the nonpayment, within the time fixed for their payment, of taxes imposed under authority of this act and for the violations of the provisions of ordinances or resolutions passed under authority of this act.

If for any reason any tax levied and assessed upon [earned] income by any such political subdivision is not paid when due, interest [at the rate of six percent per annum on the amount of said tax, and an additional penalty of one-half of one percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid,] and penalties as provided in section 509(i) shall be added and collected. When suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

Section 31. Section 22.1 of the act, amended June 21, 2007 (P.L.13, No.7), is renumbered and amended to read:

Section [22.1] 707. Costs of Collection of Delinquent Per Capita, Occupation, Occupational Privilege, Emergency and Municipal Services, Local Services and [Earned] Income Taxes.—(a) A [person, public employe] bureau, political subdivision or private agency designated by a governing body of a political subdivision or a tax collection district to collect and administer [a] per capita, occupation[,] or occupational privilege, emergency and municipal services, local services taxes under Chapter 3 or [earned income tax] income taxes under Chapter 5 may impose and collect the reasonable costs incurred to provide notices of delinquency or to implement similar procedures utilized to collect delinquent taxes from a taxpayer as approved by the governing body of the political subdivision or the tax collection committee. Reasonable costs collected may be retained by the [person, public employe or private agency designated to collect the tax as agreed to by the governing body of the political subdivision] tax collector under Chapter 3 or the tax officer under Chapter 5. An itemized accounting of all costs collected shall be remitted to the political subdivision or the tax collection committee on an annual basis.

(b) Costs related to the collection of unpaid per capita, occupation, occupational privilege, emergency and municipal services or local services taxes may only be assessed, levied and collected for five years from the last day of the calendar year in which the tax was due.

(c) A delinquent taxpayer may not bring an action for reimbursement, refund or elimination of reasonable costs of collection assessed or imposed prior to the effective date of this section. Additional costs may not be assessed on delinquent taxes collected prior to the effective date of this section.

Section 32. Section 22.2 of the act, added November 30, 2004 (P.L.1520, No.192), is renumbered and amended to read:

Section **[22.2] 708**. Clarification of Existing Law.—The addition of section **[22.1 of this act] 707** is intended as a clarification of existing law and is not intended to:

- (1) establish new rights or enlarge existing rights of political subdivisions or employes or agents of political subdivisions; or
- (2) establish new obligations or enlarge existing obligations of taxpayers.

Section 33. Section 22.3 of the act, added November 30, 2004 (P.L.1520, No.192), is repealed:

**[Section 22.3. Legal Representation.—When bringing a suit under any provision of this act, the taxing district, officer, person, public employe or private agency designated by the taxing district shall be represented by an attorney.]**

Section 34. Section 22.6 of the act, added June 21, 2007 (P.L.13, No.7), is repealed:

**[Section 22.6. Restricted Use.—(a) Any municipality deriving funds from the local services tax may only use the funds for:**

- (1) Emergency services, which shall include emergency medical services, police services and/or fire services.**
- (2) Road construction and/or maintenance.**
- (3) Reduction of property taxes.**
- (4) Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85 Subch. F (relating to homestead property exclusion).**

**(a.1) A municipality shall use no less than twenty-five percent of the funds derived from the local services tax for emergency services.**

**(b) In the event that a municipality decides to implement a homestead and farmstead exclusion for purposes of providing property tax relief in accordance with subsection (a)(4), the following shall apply:**

- (1) The decision to provide a homestead and farmstead exclusion shall be made, by ordinance, prior to December 1, with the homestead and farmstead exclusion to take effect for the fiscal year beginning the first day of January following adoption of the ordinance. Upon adopting an ordinance in accordance with this paragraph, a municipality shall, by first class mail, notify the assessor, as defined in 53 Pa.C.S. § 8582 (relating to definitions), of its decision to provide a homestead and farmstead exclusion.**

(2) The assessor shall provide a municipality that will be imposing a homestead and farmstead exclusion in accordance with subsection (a)(4) with a certified report, as provided in 53 Pa.C.S. § 8584(i) (relating to administration and procedure), listing information regarding homestead and farmstead properties in the municipality as determined pursuant to applications filed with the assessor in connection with this or any other law under which a homestead or farmstead exclusion has been adopted. In the year in which an ordinance is adopted in accordance with paragraph (1), the assessor shall provide the certified report after being notified by the municipality of its decision to provide a homestead and farmstead exclusion. In each succeeding year, the assessor shall provide the certified report by December 1 or at the same time the tax duplicate is certified to the municipality, whichever occurs first. Any duty placed on an assessor in accordance with this paragraph shall be in addition to those established in 53 Pa.C.S. Ch. 85 Subch. F and the act of June 27, 2006 (1st Sp.Sess. P.L.1873, No.1), known as the "Taxpayer Relief Act."

(3) Only homestead or farmstead properties identified in the certified report of the assessor obtained in any year shall be eligible to receive the exclusion for the next fiscal year.

(4) In the year in which a municipality adopts the ordinance evidencing its decision to implement a homestead and farmstead exclusion, the municipality shall notify by first class mail the owner of each parcel of residential property within the municipality which is not approved as a homestead or farmstead property or for which the approval is due to expire of the following:

(i) That the homestead and farmstead exclusion program is to be implemented to provide property tax relief as authorized by subsection (a)(4), beginning in the next fiscal year.

(ii) That only properties currently identified in the certified report of the assessor as having been approved in whole or in part as homestead or farmstead properties shall be entitled to an exclusion in the next fiscal year.

(iii) That owners of properties that have not been approved by the assessor as homestead or farmstead properties may file an application in accordance with 53 Pa.C.S. § 8584(a) by the annual application deadline of March 1 in order to qualify for the program in the year following the next fiscal year.

(5) The one-time notice required by paragraph (4) may be combined and made together with the annual notice required by paragraph (7) or with an annual notice by a coterminous political subdivision that has implemented a homestead and farmstead exclusion.

(6) In the year in which the initial decision to provide a homestead and farmstead exclusion is made and in each succeeding year, a municipality shall, by resolution, fix the dollar amount that is to be excluded from the assessed value of each homestead and farmstead property for the next fiscal year, consistent with 53 Pa.C.S. §§ 8583 (relating to exclusion for homestead property) and 8586 (relating to limitations). This determination of the amount of the homestead and

farmstead exclusion shall be made, after receipt of the tax duplicate and the certified report from the assessor, at the time the governing body of a municipality determines the municipal budget and estimates revenues to be derived from the local services tax for the next fiscal year.

(7) Each year after the year in which the municipality implements a homestead and farmstead exclusion and no later than one hundred twenty days prior to the application deadline, the municipality shall give notice of the existence of the municipality's homestead and farmstead exclusion program; the need to file an application in accordance with 53 Pa.C.S. § 8584(a) in order to qualify for the program; and the application deadline, which, notwithstanding 53 Pa.C.S. § 8584(b), shall be December 15. This annual notice, which shall be given by first class mail, need only be sent to the owner of each parcel of residential property in the municipality which is not approved as homestead or farmstead property or for which the approval is due to expire.

(c) For purposes of this section, the term "municipality" does not include a school district.]

Section 35. The act is amended by adding a chapter heading to read:

**CHAPTER 9**  
**MISCELLANEOUS PROVISIONS**

Section 36. Section 23 of the act is renumbered and amended to read:

Section [23] 901. Repeals.—(a) (1) The act of June 25, 1947 (P.L.1145), entitled, as amended, "An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class to levy, assess and collect or to provide for the levying, assessment and collection of certain additional taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers and employes to assess and collect such taxes; and permitting penalties to be imposed and enforced; providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court," is repealed.

(2) All other acts and parts of acts are repealed in so far as they are inconsistent herewith.

(b) *The following acts and parts of acts are repealed to the extent specified:*

(1) *Section 224 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, insofar as it is inconsistent with this act.*

(2) *The act of August 24, 1961 (P.L.1135, No.508), referred to as the First Class A School District Earned Income Tax Act, insofar as it is inconsistent with this act.*

(3) *Sections 322, 326, 351 and 5004.1 of the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, insofar as it is inconsistent with this act.*

Section 37. Any ordinance or resolution providing for the levying, assessment or collection of a tax on individuals for the privilege of engaging in an occupation which has been enacted by a political subdivision prior to December 1, 2004, shall continue in full force and effect, without reenactment, as if such tax had been levied, assessed or collected as a local services tax under section 301.1(f)(9) of the act. All references in any ordinance or resolution to a tax on the privilege of engaging in an occupation shall be deemed to be a reference to a local services tax for the purposes of the act.

Section 38. All emergency and municipal services taxes levied for the calendar year beginning on January 1, 2007, shall remain in effect for the calendar year beginning on January 1, 2007, and ending December 31, 2007, and are not otherwise altered.

Section 39. This act shall apply as follows:

(1) The following provisions shall not apply to an Article XIII tax officer with respect to income taxes levied before January 1, 2012:

(i) The amendment of section 10 of the act.

(ii) The repeal of section 11 of the act.

(2) The repeal of divisions (II), (III), (IV), (V), (VI), (VII), (VIII) and (IX) of section 13 of the act shall not apply to income taxes levied and collected prior to January 1, 2012.

(3) Except as set forth in paragraph (4) and sections 508 and 515 of the act, the addition of Chapter 5 of the act shall apply to income taxes levied and collected after December 31, 2011.

(4) The addition of section 511 of the act shall apply to the official register released June 15, 2008, and each year thereafter.

Section 40. This act shall take effect as follows:

(1) The following provisions shall take effect January 1, 2012:

(i) The amendment of section 10 of the act.

(ii) The repeal of section 11 of the act.

(2) The repeal of section 13 of the act shall take effect June 30, 2012.

(3) The remainder of this act shall take effect immediately.

APPROVED—The 2nd day of July, A.D. 2008.

EDWARD G. RENDELL

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<sup>1</sup>“The amendment of” in enrolled bill.