

Chapter 212

TAXATION

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

ARTICLE I
Mechanical Amusement Devices
[Adopted 5-8-1956 by Ord. No. 159]

§ 212-1. Definitions.

- A. Definitions. Unless otherwise herein expressly stated, the following terms shall have, for the purpose of this article, the meanings hereby respectively indicated:

DEVICE — Any mechanical amusement device, other than a jukebox, for the use of which for profit a tax is levied under this article.

MECHANICAL AMUSEMENT DEVICE — Any device, other than a jukebox, which upon the insertion of a coin, slug or token may be operated for use as a game, entertainment or amusement, whether or not registering a score and whether or not a prize is offered; provided that such term shall not include any gambling device or any mechanism that has been judicially determined to be a gambling device.

PERSON — Any natural person, association, copartnership, firm or corporation.

- B. Usage. In this article, the singular shall include the plural and the masculine shall include the feminine and the neuter.

§ 212-2. Imposition of tax; amount.

There is hereby imposed a tax for general Borough purposes upon the privilege of using for profit within the Borough of Port Carbon any mechanical amusement device, as herein defined. Such tax shall be payable by the person owning and/or operating the establishment in which such device is installed for use. Such tax shall be payable at the following rate: on each mechanical amusement device, \$50 for the calendar year or any portion thereof.

§ 212-3. Payment of tax.

The tax imposed under this article shall be payable to the Borough Treasurer on or before the 1st day of June 1956. No deduction or refund of any tax payable under this article shall be granted in the case of any tax payable for less than a full calendar year or in case of any device destroyed, stolen, sold or otherwise disposed of or transferred after the payment of such tax; provided, however, in the case of the substitution of any device by another device in the same class, the use of which is taxable under this article, no additional tax shall be paid, provided that the total number of devices of the same class in use upon the premises remains no greater than that upon which such tax was paid.

§ 212-4. Certificates of payment; seal.

- A. The Borough Treasurer shall procure, at the expense of the Borough, a sufficient number of certificates, upon each of which the following information shall be printed or inserted in ink or by typewriter:

- (1) The name of the Borough.
- (2) The number of the certificate.

- (3) The name and address of the person paying the tax.
 - (4) The year for which the tax shall have been paid.
 - (5) The date on which such tax shall have been paid.
 - (6) The type of device for which the tax shall have been paid.
 - (7) The amount of tax paid.
- B. Whenever any tax shall have been paid under this article, the Borough Treasurer shall prepare in duplicate a certificate, as herein prescribed. The original of such certificate, to which the Borough seal shall be affixed, shall be given to the person paying such tax, and the duplicate shall be kept on file by the Borough Treasurer. The Borough Treasurer shall also procure and give to each person paying such tax a seal to be affixed to each device for the use of which such tax shall have been paid. Such seal shall indicate the year for which such tax shall have been paid, the type of device and the certificate number.
- C. In case of the loss, defacement or destruction of any original certificate or seal, the person to whom such certificate or seal was issued shall apply to the Borough Treasurer, who may issue a new certificate or seal in replacement thereof upon payment of a fee of \$0.50, and who shall amend the duplicate of the certificate first issued in case a new certificate has been issued.
- D. In case of the removal of any establishment in which is installed any device for the use of which a tax shall have been paid under this article to another location in the Borough, or in case of a change in the identity of the person operating or owning any such establishment, the person operating such establishment shall report such fact within five days of such change in location or personnel, and the Borough Treasurer shall immediately amend the certificate and duplicate certificate.
- E. Before the removal of any device from any establishment, the person operating such establishment shall remove the seal issued under this article from such device. Such seal may be affixed to any other device of the same class used in such establishment during the current year.

§ 212-5. Penalty for nonpayment.

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

§ 212-6. Recovery of taxes.

All taxes imposed by this article, together with all penalties, interest and costs, shall be recoverable by the Borough Solicitor as debts of like amount are by law recoverable.

§ 212-7. Disposition of tax revenue.

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

§ 212-8. Expenses of administration.

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

§ 212-9. Limitation.

This article shall not apply to any person or property as to whom or which it is beyond the legal power of the Borough Council to impose the tax or duties herein provided for.

§ 212-10. Violations and penalties. [Amended 4-8-2008 by Ord. No. 1-2008]

Any person violating any of the provisions of this article shall, upon conviction, be punishable as set forth in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

§ 212-11. Continuation of tax.

The tax imposed under this article shall be payable to the Borough Treasurer on or before the 1st day of June in each year subsequent to the year 1956.

ARTICLE II
Realty Transfer Tax
[Adopted 1-13-1970 by Ord. No. 201]

§ 212-12. Statutory authority.

This article is enacted under the authority of the Act of Assembly No. 511, approved December 31, 1965, P.L. 1257, entitled "The Local Tax Enabling Act."¹

§ 212-13. Definitions.

Unless otherwise herein expressly provided, the following terms, when used in this article, shall have the meanings hereby indicated:

BOROUGH — The Borough of Port Carbon, Schuylkill County, Pennsylvania.

PERSON — Any natural person, association, copartnership, firm or corporation.

RECORDER — The Recorder of Deeds of Schuylkill County, his successors in office and their respective deputies.

TRANSFeree — The person buying, acquiring or otherwise receiving ownership of real property or any interest therein.

TRANSFEROR — The person selling, conveying or otherwise transferring ownership of real property or any interest therein.

VALUE OF THE REAL PROPERTY OR PROPERTY INTEREST — The actual consideration paid or payable, including the amount of any mortgage, bond, note or other obligation forming part of the consideration, for any real property or interest in real property, provided that, in the case of a gift, the term shall mean the market value thereof.

§ 212-14. Imposition of tax.

There is hereby levied, assessed and imposed for the year 1970 and thereafter from year to year on a calendar-year basis, without annual reenactment, unless the rate of tax is subsequently changed, a tax at the rate hereinafter provided upon the transfer of real property, regardless of where the instruments effecting the transfers are made, executed or delivered or where actual settlement of such transfers takes place.

§ 212-15. Tax rate.

The tax hereby levied, assessed and imposed shall be at the rate of 1% of the value of the real property or property interest transferred, whether or not such value is stated as the consideration in the document evidencing the transfer.

§ 212-16. Liability for tax.

The tax hereby levied and assessed shall be paid by the transferee, and the transferee shall be liable for the payment thereof, but nothing herein contained shall be construed as prohibiting the payment of the tax by the transferor. Payment of the tax by the transferor

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

shall discharge the transferee's liability for payment of the tax.

§ 212-17. Time of payment.

The tax hereby levied, assessed and imposed shall be payable upon the completion of the transfer of the real property or interest in real property transferred but not later than the time of the recording of the deed or other instrument evidencing the transfer in the office of the Recorder.

§ 212-18. Exemptions.

This article shall not be construed as imposing a tax in the following instances:

- A. When the transfer is by will or mortgage or the intestate laws of this commonwealth.
- B. 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.
- C. A transfer between corporations operating housing projects pursuant to the Housing and Redevelopment Assistance Law and the shareholders thereof.
- D. A transfer between nonprofit industrial development agencies and industrial corporations purchasing from them or on transfer to nonprofit industrial development agencies.
- E. A transfer between husband and wife.
- F. 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 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.
- G. A transfer between parent and child or the spouse of such child or between parent and trustee for the benefit of a child or the spouse of such child.
- H. A transfer by and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises.
- I. A correctional deed without consideration.
- J. 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 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.
- K. Leases.

- L. 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.

§ 212-19. Collection of tax.

The Recorder is hereby appointed as agent of the Borough for the collection of the tax, and he is authorized to place an imprint of a rubber stamp upon the instrument recorded as evidence of the payment of the tax to him due upon the transfer evidenced by such instrument. Any such imprint upon a recorded instrument shall be evidence of the payment of the tax, and no other receipt shall be required.

§ 212-20. Interest on unpaid taxes.

All taxes under this article which are due and unpaid shall bear interest at the rate of 6% per year, and such taxes and interest and any penalties may be collected as other taxes are collected under the Local Tax Collection Law of May 25, 1945, P.L. 1050, as amended.

§ 212-21. Penalty on unpaid taxes.

If any tax levied in pursuance of this article shall not be paid when due, there shall be added to the tax a penalty of 10% of the amount of the tax due, in addition to the interest hereinabove provided.

ARTICLE III
Earned Income Tax
[Adopted 10-13-1964 by Ord. No. 179]

§ 212-22. Definitions.

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

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

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

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.

EARNINGS — Salaries, wages, commissions and other compensation as defined in this article.

EMPLOYER — An individual, partnership, association, corporation, governmental body or unit or agency or any other entity employing one or more persons on a salary, wage, commission or other compensation basis.

INCOME TAX OFFICER — Person designated by Borough Council of Port Carbon to administer the provisions of this article.

NET PROFITS — The net income from the operation of a business, profession or other activity after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used in such business, profession or other activity, but without deduction of taxes based on income.

PERSON — A natural person, partnership, corporation, fiduciary or association. Whenever used in any section prescribing and imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

RESIDENT — An individual, partnership, association or other entity domiciled in the Borough of Port Carbon.

SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION — Salaries, wages, commissions, bonuses, incentive payments, fees and tips that may accrue or be received by an individual for services rendered, whether directly or through an agent and whether in cash or in property, not including periodic payments for sick or disability benefits and those commonly recognized as old-age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, or public assistance or unemployment compensation payments made by any governmental agency, or any wages or compensation paid by the United States to any person for active service in the army, navy or air force of the United States, or any bonus or additional compensation paid by the United States or the Commonwealth of Pennsylvania or any other state for such service.

TAXABLE — Subject to the tax imposed by this article.

TAXABLE YEAR — The calendar year beginning January 1, 1965, and ending December 31, 1965.

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

§ 212-23. Imposition of tax.

- A. A tax for general revenue purposes of 1/2 of 1% is hereby imposed on the following:
- (1) Salaries, wages, commissions and other compensation earned during the taxable year by individual residents of the Borough of Port Carbon.
 - (2) Net profits earned during the taxable year by residents of the Borough of Port Carbon.
- B. The tax levied under Subsection A(1) herein shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to a person who is employed by him. The tax levied under Subsection A(2) herein shall relate to and be imposed on the net profits of any business, profession or other activity carried on by any person or persons.
- C. Every corporation which is subject to the Pennsylvania corporate net income tax or exempt from the Pennsylvania corporate net income tax and every foreign corporation which is subject to the Pennsylvania franchise tax or exempt from the Pennsylvania franchise tax shall be exempt from the tax imposed by this article.
- D. The tax levied by this article shall be applicable to salaries, wages, commissions and other compensation and to net profits earned in the period beginning January 1, 1965, and ending December 31, 1965, and tax shall continue in force on a calendar- or fiscal-year basis, without annual reenactment, unless the rate of the tax is subsequently changed.

§ 212-24. Declaration and payment of tax.

- A. Net profits.
- (1) Every person, hereinafter called "taxpayer," who reasonably expects that he will earn any taxable net profits during the period between January 1 and December 31 of the taxable year shall, on or before April 15 of the taxable year, make and file with the Income Tax Officer, on a form prescribed by the Income Tax Officer, a declaration of his estimated net profits for the period beginning January 1 and ending December 31, setting forth the estimated amount of net profits reasonably expected by him for the said period and subject to the tax, the amount of estimated tax imposed by this article on such estimated net profits and such other relevant information as the Income Tax Officer may require. The taxpayer making the declaration shall, at the time of filing thereof, pay to the Borough of Port Carbon 1/4 of the estimated tax shown as due thereon, and such taxpayer shall thereafter pay 1/4 of the estimated tax in each of three installments as follows: one installment on or

before July 15 of the taxable year, one installment on or before October 15 of the taxable year and the last installment on or before January 15 next following the close of the taxable year.

- (2) A person who, on April 15 of the taxable year, did not reasonably expect that he would earn any taxable net profits during the period between January 1 and December 31 of the taxable year, and who, subsequent to April 15 of the taxable year, reasonably expects that he will earn taxable net profits on or before December 31 of the taxable year, shall make and file on or before July 15 of the taxable year, October 15 of the taxable year or January 15 next following the close of the taxable year, whichever of these dates next follows the date on which the taxpayer first reasonably expects such net profits, a declaration similar to that required under the foregoing Subsection A(1). The taxpayer making the declaration shall, at the time of filing thereof, pay to the Borough of Port Carbon the estimated tax shown as due thereon; provided, however, that the taxpayer shall have the right to pay the estimated tax in equal installments on or before the quarterly installment payment dates which remain after the filing of the declaration.
- (3) The Income Tax Officer is hereby 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 shall thereafter either reasonably expect additional net profits not previously declared or find that he has overestimated his net profits.
- (4) On or before April 15 next following the close of the taxable year, every taxpayer who has earned taxable net profits shall make and file with the Income Tax Officer, on a form prescribed by him, a final return showing all of such net profits for the period beginning January 1 and ending December 31 of the taxable year, the total amount of tax due, the amount of estimated tax paid under the provisions of this section and the balance due. When the return is made for a fiscal year different from the calendar year, the return shall be made within 105 days from the end of the said fiscal year. The percentage of the total net profits of any calendar or fiscal year of a taxpayer beginning or ending within the period beginning January 1 and ending December 31 of the taxable year to which the tax imposed by this article shall be applicable shall be equal to the same percentage of such total net profits as the number of days in any such year within such period bears to the total number of days in any such year. 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.
- (5) Every taxpayer who discontinues business prior to December 31 of the taxable year shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due or demand refund or credit in the case of overpayment.

B. Salaries, wages, commissions and other compensation.

- (1) Every taxpayer who is employed on a salary, wage, commission or other

compensation basis and who reasonably expects to earn any taxable earnings not subject to the provisions of § 212-25 of this article relating to the collection at source shall, on or before April 15 of the taxable year, make and file with the Income Tax Officer a declaration of his estimated total amount of taxable salaries, wages, commissions and other compensation for the period beginning January 1 of the taxable year and ending December 31 of the taxable year, the estimated amount of the tax thereon that will be deducted therefrom pursuant to § 212-25 of this article, the estimated amount of tax imposed by this article that will not be deducted therefrom pursuant to § 212-25, and such other relevant information as the Income Tax Officer may require. In preparing his declaration of estimated taxable salaries, wages, commissions and other compensation taxable under this article, the taxpayer shall use the same amounts with respect to such items as he shall have used in preparing his declaration of estimated tax for the year for federal income tax purposes if such taxpayer shall be required to file any such last-mentioned declaration.

- (2) A person who, on April 15 of the taxable year, did not reasonably expect that he would earn any salaries, wages, commissions and other compensation not subject to the provisions of § 212-25 of this article relating to the collection at source during the period between January 1 and December 31 of the taxable year, and who, subsequent to April 15 of the taxable year, reasonably expects that he will earn salaries, wages, commissions and other compensation not subject to the provisions of § 212-25 of this article on or before December 31 of the taxable year, shall make and file on or before July 15 of the taxable year, October 15 of the taxable year or January 15 next following the close of the taxable year, whichever of these dates next follows the date on which the taxpayer first reasonably expects that he will earn such salaries, wages, commissions and other compensation, a declaration similar to that required under the immediately foregoing Subsection B(1). The taxpayer making the declaration shall, at the time of filing thereof, pay to the Borough of Port Carbon the estimated tax shown as due thereon; provided, however, that the taxpayer shall have the right to pay the estimated tax in equal installments on or before the quarterly installment payment dates which remain after the filing of the declaration.
- (3) The Income Tax Officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated salaries, wages, commissions and other compensation and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required shall thereafter either reasonably expect additional salaries, wages, commissions and other compensation not previously declared or find that he has overestimated his salaries, wages, commissions and other compensation.
- (4) On or before April 15 next following the close of the taxable year, every taxpayer who has received taxable salaries, wages, commissions and other compensation shall make and file with the Income Tax Officer, on a form prescribed by him, a final return showing all such salaries, wages, commissions and other compensation earned during the period beginning January 1 and ending December 31 of the taxable year, the total amount of tax due thereon, the amount of estimated tax thereon paid under the provisions of

this section, if any, and the amount, if any, of tax thereon that has been withheld pursuant to the provisions of § 212-25 of this article 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.

§ 212-25. Collection at source.

- A. Every person within the Borough of Port Carbon who employs one or more persons on a salary, wage, commission or other compensation basis, other than domestic servants, shall deduct at the time of the payment thereof the tax imposed by this article on the salaries, wages, commissions and other compensation due to his employee or employees, and shall, on or before April 30, July 31 and October 31 of the taxable year and January 31 next following the close of the taxable year, respectively, make and file with the Income Tax Officer, on a form prescribed by the Income Tax Officer, a return setting forth the taxes so deducted, and pay to the Borough of Port Carbon the amount of taxes deducted for the preceding quarterly periods ending March 31, June 30, September 30 and December 31 of the taxable year, respectively.
- B. On or before March 15 next following the close of the taxable year, every such employer shall file with the Income Tax Officer, on forms prescribed by him:
 - (1) An annual return showing the total amount of salaries, wages, commissions and other compensation earned by his employee or employees on which a tax is imposed by this article, the total amount of tax deducted and the total amount of tax paid to the Borough of Port Carbon in respect to salaries, wages, commissions and other compensation earned by his employee or employees during the taxable year; and
 - (2) A return in respect to each person who was an employee during all or any part of the taxable year and who earned during such period any salaries, wages, commissions or other compensation subject to the tax imposed by this article, setting forth the employee's name, address and social security number, the amount of such salaries, wages, commissions or other compensation earned by the employee during said period, the amount of tax deducted therefrom and such other relevant information as the Income Tax Officer may require. Every employer shall furnish a copy of the individual return to the employee in respect of whom it was filed.
- C. Every employer who discontinues business prior to December 31 of the taxable year shall, within 30 days after the discontinuance of business, file the returns hereinabove required and pay the tax due.
- D. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of this article relating to the filing of declarations and returns.
- E. If an employer makes a deduction of tax as required by this section, the amount deducted shall constitute in the hands of such employer a trust fund held for the

account of the Borough of Port Carbon as beneficial owner thereof, and the employee from whose salaries, wages, commissions or other compensation such tax was deducted shall be deemed to have paid such tax.

§ 212-26. Powers and duties of Income Tax Officer.

- A. It shall be the duty of the Income Tax Officer to collect and receive the taxes, fines and penalties imposed by this article. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and, if paid by such person in respect of another person, the name of such other person and the date of such receipt.
- B. The Income Tax Officer is hereby charged with the administration and enforcement of the provisions of this article and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the reexamination and correction of declarations and returns and of payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this article.
- C. The Income Tax Officer and agents designated in writing by him are hereby authorized to examine the books, papers and records of any person 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 person is hereby directed and required to give to the Income Tax Officer or to any agent so designated by him the opportunity for such examinations and investigations as are hereby authorized.
- D. Any information gained by the Income Tax Officer, his agents or by any other official, agent or employee of the Borough of Port Carbon as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this article shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this article or as otherwise provided by law.
- E. Any person aggrieved by any action of the Income Tax Officer shall have the right of appeal as provided by law.

§ 212-27. Suit for collection of tax.

- A. The Income Tax Officer may sue in the name of the Borough of Port Carbon for the recovery of taxes due and unpaid under this article.
- B. Any suit brought to recover the tax imposed by this article shall be begun within six years after such tax is due or within six years after a declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:
 - (1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under the provisions of this article.
 - (2) In the case of a false or fraudulent declaration or return with the intent to evade

tax.

- (3) Where any person has deducted taxes under the provisions of this article and has failed to pay the amounts so deducted to the Borough of Port Carbon.

§ 212-28. Interest and penalties.

If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax and an additional penalty of 1/2 of 1% 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.

§ 212-29. Payment and refunds.

The Income Tax Officer is hereby authorized to accept payment of the amount of tax claimed by the Borough in any case where any person disputes the validity or amount of the Borough's claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Income Tax Officer, the amount of the overpayment shall be refunded to the person who paid.

§ 212-30. Exemptions.

- A. The tax imposed by this article shall not apply:
 - (1) To any person as to whom it is beyond the legal power of the Borough of Port Carbon to impose the tax herein provided for under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.
 - (2) To the net profits of any institution or organization operated for public, religious, educational or charitable purposes, to an institution or organization not organized or operated for private profit, or to a trust or a foundation established for any of the said purposes.
 - (3) To any person whose total income from all sources is less than \$12,000 per annum. **[Added 4-8-2008 by Ord. No. 1-2008]**
- B. This section shall not be construed to exempt any person who is an employer from the duty of collecting the tax at source from his employees and paying the amount collected to the Borough of Port Carbon under the provisions of § 212-25 of this article.

§ 212-31. Violations and penalties.

- A. Any person who fails, neglects or refuses to make any declaration or return required by this article; any employer who fails, neglects or refuses to pay the tax deducted from his employees; any person who refuses to permit the Income Tax Officer or any agent properly designated by him to examine his books, records and papers; and any person who makes any incomplete, false or fraudulent return to avoid the payment of the whole or any part of the tax imposed by this article shall, upon

conviction thereof before a Magisterial District Judge, be punishable as set forth in Chapter 1, General Provisions, Article I, General Penalty, of this Code. **[Amended 4-8-2008 by Ord. No. 1-2008]**

- B. Any person who, except as permitted by the provisions of § 212-26D of this article, divulges any information which is confidential under the provisions of said section shall, upon conviction, be punishable as set forth in Chapter 1, General Provisions, Article I, General Penalty, of this Code. **[Amended 4-8-2008 by Ord. No. 1-2008]**
- C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this article.
- D. The failure of any person to receive or procure the forms required for making any declaration or return required by this article shall not excuse him from making such declaration or return.

ARTICLE IV
Per Capita Tax
[Adopted 4-8-2008 by Ord. No. 1-2008]

§ 212-32. Legislative authority; intent.

The Borough Council of the Borough of Port Carbon, Pennsylvania, hereby imposes a per capita tax in accordance with the authority granted by the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, No. 511, as amended, 53 P.S. § 6901 et seq.

§ 212-33. Definitions.

In the construction of this article, the following terms shall have the meanings indicated:

RESIDENT — Every adult 18 years of age or older who lives within the Borough.

TAX COLLECTOR — The person or agency designated by the Borough Council to administer and collect the per capita tax.

§ 212-34. Tax rate; purpose.

A per capita tax rate of \$5 is hereby levied and assessed for general Borough purposes upon each resident of the Borough, which tax shall be in addition to all other taxes levied and assessed by the Borough pursuant to any other laws of the Commonwealth of Pennsylvania.

§ 212-35. Exemptions.

Any resident whose total income from all sources is less than \$12,000 per annum is exempted from the imposition of the per capita tax. The Borough Council shall have the authority to adopt regulations for the processing of claims for exemptions, which must be complied with by any person claiming entitlement to an exemption.

§ 212-36. Collection.

The per capita tax shall be collected by the Tax Collector. The entry of a person's name on the per capita tax duplicate and the issuance of such duplicate to the Tax Collector shall constitute his or her warrant for the collection of the per capita tax hereby levied and assessed. The expense of collection and compensation of the Tax Collector shall be as provided by law.

§ 212-37. Duties of Tax Collector.

The Tax Collector shall give notice to residents, shall have the power to collect the per capita tax by any lawful means, shall have the power and authority to demand and receive taxes from the employer of any resident owing any per capita tax or whose spouse owes any per capita tax, shall remit the per capita taxes to the Borough Treasurer, shall allow discounts and add penalties, and shall generally be subject to all the duties and shall have all the rights and authority conferred by the Local Tax Enabling Act.

ARTICLE V

Discounts and Penalties**[Adopted 4-8-2008 by Ord. No. 1-2008]****§ 212-38. Discount for prompt payment.**

All taxpayers subject to the payment of any real estate taxes levied and assessed by the Borough of Port Carbon, Schuylkill County, Pennsylvania, and any per capita taxes levied and assessed under authority of the Act of January 1, 1966 (1965), P.L. 1257, No. 511, as amended, commonly known as "The Local Tax Enabling Act," shall be entitled to a discount of 2% from the amount of such tax upon making a payment of the whole amount thereof within two months after the date of the tax notice.

§ 212-39. Penalty for late payment.

All taxpayers who shall fail to make payment of any such taxes charged against them for four months after the date of the tax notice shall be charged a penalty of 10%, which penalty shall be added to the taxes by the Tax Collector and be collected by said Tax Collector.

ARTICLE VI
Business Privilege Tax
[Adopted 12-29-1981 by Ord. No. 301-1981]

§ 212-40. Definitions.

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

BOROUGH — The Borough of Port Carbon.

BUSINESS — Any activity carried on or exercised for gain or profit in the Borough, including, but not limited to, the sale of merchandise or other tangible personalty or the performance of services.

CALENDAR YEAR — The period January 1 to December 31, inclusive.

LICENSE YEAR — The period from January 1 to December 31, inclusive.

PERSON — Any individual, partnership, limited partnership, association, firm or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

TAX YEAR — The period from January 1 to December 31, inclusive.

TAXPAYER — Any person subject to the payment of the tax imposed by this article.

TREASURER — The Borough Treasurer or such other person duly appointed by the Borough to administer the within tax.

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

§ 212-41. Rate and base of tax.

There is hereby levied for the tax year 1982 and annually thereafter a tax for general revenue purposes on the privilege of doing business as herein defined in the Borough as follows:

- A. The rate of the tax on each and every dollar of the whole or gross volume of business transacted within the territorial limits of the Borough shall be 1 1/2 mills. One-and-one-half mills shall mean \$1.50 per \$1,000 of gross volume of business, except that the rate of the tax on each and every dollar of the whole or gross volume of business transacted by wholesale dealers or wholesale vendors within the territorial limits of the Borough shall be one mill.
- B. All nonwholesale business of such wholesale dealers or wholesale vendors shall be taxed at the general rate of 1 1/2 mills.

§ 212-42. Computation of volume of business.

- A. Every person subject to the payment of the tax hereby imposed who has commenced his business prior to the full calendar year prior to the tax year shall

compute his annual estimated gross volume of business upon the actual gross amount of business transacted by him during the immediately preceding calendar year.

- B. Every person subject to the payment of the tax hereby imposed who has commenced or who commences his business before the beginning of the tax year but after the beginning of the full calendar year prior to the tax year shall compute his estimated annual gross volume of business for the tax year upon the gross volume of business transacted by him during the prior calendar year, taking the monthly average during such period and multiplying the same by 12. In the event that he shall be in business fewer than 90 days in the prior calendar year he shall be permitted to use sufficient days in the calendar year in which the tax year begins to equal 90 successive days after commencement of business, to take a monthly average thereon, and to multiply the average by 12.
- C. Every person subject to the payment of the tax hereby imposed who has commenced or commences his business subsequent to the beginning of the tax year, if there is less than three months from the commencement of his business to the end of the tax year, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the tax year; if there is more than three months from the commencement of his business to the end of the tax year, he shall compute his estimated gross volume of business for such tax year upon the gross volume of business transacted by him during the period from the commencement of his business to the end of the tax year, taking the monthly average during the first three months of business and multiplying the same by the number of months from the commencement of business to the end of the tax year.
- D. Every person subject to the payment of the tax hereby imposed who engages in a business that is temporary, seasonal or itinerant by nature, shall compute his estimated gross amount of business to be transacted by him for the period he engages in such temporary, seasonal or itinerant business within the Borough by a method to be determined by the Treasurer.
- E. The Treasurer is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Borough in any case where the taxpayer disputes the validity or the amount of the Borough's claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that the Borough has been overpaid, the amount of the overpayment shall be refunded to the taxpayer. The provisions of this section shall be applicable to cases in which the facts are similar to those in a case litigated in a court of competent jurisdiction.
- F. No such tax or fee shall be assessed and collected on rent received by an owner from a building originally erected as a private dwelling house and occupied as a residence by such owner during the tax year.

§ 212-43. Persons, business and receipt exempted.

- A. Persons employed for a wage or salary, nonprofit corporations or associations organized for religious, charitable or educational purposes, agencies of the government of the United States or of the commonwealth and the business of any political subdivision or of any authority created or organized under and pursuant to

any act of assembly are exempt from the provisions of this article.

- B. No such tax shall be assessed and collected on a privilege, transaction, subject or occupation which is subject to a state tax or license fee, provided that nothing herein shall be construed to exempt any privilege, transaction, subject or occupation that is subjected to a state registration fee as compared to a state license fee.
- C. No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utilities Commission or on any privilege or transaction involving the rendering of any such public utility service.
- D. No such tax shall be assessed and collected on the privilege of employing such tangible property as is subject to a state tax except on sales of admissions to places of amusement or on sales or other transfers of title or possession of property.
- E. No such tax shall be assessed and collected on goods, articles and products or on by-products of a manufacturer, or on minerals, timber, natural resources and farm products, manufactured, produced or grown in the Borough, 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 any privilege, act or transaction relating to the business of processing by-products of manufacture, or the transportation, loading, unloading or dumping or storage of such goods, articles, products or by-products.

§ 212-44. Determination of gross or whole volume business.

Gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made and/or services rendered, subject only to the following allowable deductions and exemptions:

- A. 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 trade-in or as part of payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.
- B. Refunds, credits or allowances given by a taxpayer to a purchaser on account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned.
- C. Any commissions paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker.
- D. Bad debts, where the deduction is also taken in the same year for federal income tax purposes.
- E. Taxes collected as agent for the United States of America, Commonwealth of Pennsylvania or the Borough of Port Carbon.

§ 212-45. Partial exemptions.

Where gross or whole volume of business in its entirety cannot be subjected to the tax imposed by this article by reason of the provisions of the Constitution of the United States or any other provision of law, the Treasurer under the direction of the Borough Council shall establish rules and regulations and methods of allocation and evaluation so that only that part of the gross or whole volume of business which is properly attributable and allowable to doing business in the Borough shall be taxed hereunder.

§ 212-46. Records.

The taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep books and records of his business so as to show clearly, accurately and separately the amount of such sales and services as are excluded from the tax and the amounts of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided.

§ 212-47. Return.

- A. Every return shall be made upon a form furnished by the Treasurer. Every person making a return shall certify the correctness thereof by affidavit.
- B. Every person subject to the tax imposed by this article who commenced his business on or before January 1 of the full calendar year previous to the beginning of any tax year shall, on or before May 15 of the tax year, file with the Treasurer a return setting forth his name, his business, business address and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, and the amount of the tax due.
- C. Every person subject to the tax imposed by this article who has commenced his business before the beginning of the tax year but after January 1 of the full calendar year previous to the beginning of the tax year shall, on or before May 15 of the tax year, file with the Treasurer a return setting forth his name, his business, business address and such other information as may be necessary in arriving at the estimated gross amount of business transacted by him as calculated under § 212-44 and the amount of the tax due.
- D. Every person subject to the tax imposed by this article who commences business subsequent to the beginning of any tax year shall, within 100 days from the date of commencing such business, file a return with the Treasurer setting forth his name, his business and business address, and such information as may be necessary in arriving at the estimated or actual gross amount of business transacted by him as calculated under § 212-44 and the amount of the tax due.
- E. Every person subject to the payment of the tax imposed by this article who engages in a business that is temporary, seasonal or itinerant by its nature shall, at the time application is made for the business privilege license, file a return with the Treasurer setting forth his name, his business and business address and such information as may be necessary in arriving at the estimated gross amount of business to be transacted by him as calculated in accordance with § 212-44.

- F. Any person going out of or ceasing to do business shall, within seven days from the date of ceasing to do business, file a return showing the actual gross volume of business conducted and done by such person during that tax year in which he ceased doing business and pay the tax due as computed thereon at the rate herein provided for at the time of filing such return. If such tax has been previously paid based upon estimated gross receipts, the taxpayer shall be entitled to a refund of any excess tax paid for the tax year in which the business was terminated.

§ 212-48. Payment of tax and penalties for late payment.

The business privilege tax levied pursuant to this article shall be due and payable on the date on which the taxpayer is required to file a return as set forth above and, if the same is not paid on that date, 5% shall be added thereto, plus an additional 1% per month or fractional part of a month until paid.

§ 212-49. Receipt.

The Treasurer shall, upon payment to him of the business privilege tax, give the person paying the same a receipt therefor.

§ 212-50. License required; fee.

After the effective date of this article, any person desiring to conduct or to continue to conduct any business as herein defined within the Borough shall file with the Treasurer an application for a business privilege license and shall pay a fee of \$5 for the initial license and \$5 for each renewal thereof.

§ 212-51. Posting of license.

The license issued shall be conspicuously posted in the place of business for which the license is issued and shall remain in effect for the license year or fraction of year for which the license was issued. In cases where business is conducted in more than one place, a separate license shall be issued for each place of business. Any taxpayer who is in default in payment of tax due hereunder shall be refused a license until such tax is paid in full.

§ 212-52. Duties of the Treasurer.

- A. The Treasurer is charged with the duties of collecting and receiving the taxes, fines and penalties imposed by this article. It shall be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.
- B. The Treasurer is hereby empowered, with the approval of the Borough Council, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination and correction of returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred, and charged with enforcing the provisions of this article and any rules and/or regulations promulgated pursuant hereto.

- C. In the event the person to be assessed neglects or refuses to make a return, then in such case the Treasurer shall assess such person on an amount of the whole or gross volume of business as the Treasurer deems reasonable and appropriate. In all cases of assessment, the Treasurer shall give the person assessed a notice in which shall be stated the trade, business, occupation or class and the amount of the business privilege tax imposed or levied.
- D. The taxpayer shall maintain such records and books of account as will enable him to make a true and accurate return in accordance with the provisions of this article. Such accounts and records must disclose in detail the gross receipts and other data pertaining to the taxpayer's gross volume of business and must be sufficiently complete to enable the Treasurer to verify all transactions. The Treasurer is hereby authorized to examine the books, papers and records of any person subject to or supposed to be subject to the tax imposed by this article in order to verify the accuracy of the return made or, if no return was made, ascertain the tax due.
- E. Any person aggrieved by any decision of the Treasurer has the right to appeal to the Court of Common Pleas as in other cases.

§ 212-53. Confidential nature of returns.

Any information gained by the Treasurer or any other official, agent or employee of the Borough as a result of any returns, investigations, hearings or verifications required or authorized by this article shall be confidential, except in accordance with proper judicial order or as otherwise provided by law.

§ 212-54. Suit of collection and penalty.

- A. The Treasurer shall have the power in the name of the Borough to institute proceedings against any person who violates any provision of this article.
- B. If for any reason the tax is not paid when due and suit is brought for the recovery of the tax, the person liable therefor shall, in addition, be liable for the costs of collection and interest and penalties imposed.

§ 212-55. Saving and severability clauses.

- A. Nothing contained in this article shall be construed to empower the Borough to levy and collect the taxes hereby imposed on any person or any business or any portion of any business not within the taxing power of the Borough under the Constitution of the United States and the laws and the Constitution of the Commonwealth.
- B. If the tax, or any portion thereof, imposed upon any person under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the commonwealth or any other provision of the law, the decisions of the court shall not affect or impair the right to impose the taxes or the validity of the tax so imposed upon other persons.
- C. The provisions of this article are severable, and if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the intention of the Borough Council that this article would have been adopted if such

illegal, invalid or unconstitutional provisions had not been included.

§ 212-56. Violations and penalties. [Amended 4-8-2008 by Ord. No. 1-2008]

Whoever conducts, transacts or engages in any of the businesses subject to the tax imposed by this article without having first secured a business privilege license for the year, or whoever fails to file a tax return as required by the provisions of this article, or whoever willfully files a false return, shall be punishable as set forth in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

§ 212-57. Effective date.

This article is enacted pursuant to the authority of the Local Tax Enabling Act of December 31, 1965, P.L. 1257, and shall become effective January 1, 1982, and shall continue thereafter unless amended or repealed.

ARTICLE VII
Local Services Tax
[Adopted 11-19-2007 by Ord. No. 5-2007²]

§ 212-58. Short title.

This article shall be known as the "Borough of Port Carbon Borough Local Services Tax Ordinance."

§ 212-59. Definitions.

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

BOROUGH OF PORT CARBON or BOROUGH — The area within the corporate limits of the Borough of Port Carbon.

COLLECTOR — The person, public employee or private agency designated by the Borough of Port Carbon Borough to collect and administer the tax herein imposed.

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

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

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

HE, HIS or HIM — Indicates the singular and plural number, as well as male, female and neuter gender.

INDIVIDUAL — Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Borough of Port Carbon.

NET PROFITS — The net income from the operation of a business, profession or other activity, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1267, § 13, as amended (53 P.S. § 6913, as amended).

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

TAX — The local services tax at the rate fixed in § 212-60 of this article.

2. **Editor's Note:** This ordinance also provided that: "Nothing herein shall be construed to repeal the imposition and collection of an occupational privilege tax, plus applicable penalties and interest, for calendar year 2006 and all prior calendar years, or of an emergency and municipal services tax for calendar year 2007, as the same existed prior to this ordinance."

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

§ 212-60. Levy of tax.

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008, upon the privilege of engaging in an occupation with a primary place of employment within the Borough of Port Carbon during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$52, assessed on a pro-rata basis, in accordance with the provisions of this article.

- A. This tax may be used solely for the following purposes, as the same may be allocated by the Borough Council from time to time:
- (1) Emergency services, which shall include emergency medical services, police services and/or fire services;
 - (2) Road construction and/or maintenance;
 - (3) Reduction of property taxes; or
 - (4) Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S.A. Ch. 85, Subch. F (relating to homestead property exclusion).
- B. The Borough shall use no less than 25% of the funds derived from the tax for emergency services.
- C. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough of Port Carbon.
- D. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

§ 212-61. Exemption and refunds.

- A. Exemption. Any person whose total earned income and net profits from all sources within the Borough is less than \$12,000 for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:
- (1) Any person who has served in any way 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 service-connected disability declared by the United States Veterans' Administration or its successor to be a total one-hundred-percent disability.
 - (2) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subsection, "reserve component of the armed forces" shall

mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

B. Procedure to claim exemption:

- (1) Any person seeking to claim an exemption from the local services tax shall annually file an exemption certificate with the Borough and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of less than \$12,000 in the calendar year for which the exemption certificate is filed. In the event the Borough utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the Borough for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the Borough or except as required by Subsection B(2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring.
- (2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the Borough that the person has received earned income and net profits from all sources within the Borough equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the Borough in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person under Subsection B(3).
- (3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under Subsection B(2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under Subsection B(2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this subsection is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the Borough may pursue collection under this act.
- (4) Except as provided in Subsection B(2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from a local

services tax.

- C. Refunds. The Borough Treasurer, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with the provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. (With respect to refunds, see 53 Pa.C.S.A. § 425; with respect to interest, see 53 Pa.C.S.A. § 8426.) Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The Borough Treasurer or the Collector shall determine eligibility for refunds to exempt persons and provide refunds.

§ 212-62. Duty of employers to collect.

- A. Each employer within the Borough of Port Carbon, as well as those employers situated outside the Borough of Port Carbon but who engage in business within the Borough of Port Carbon, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the Borough of Port Carbon and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax from each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the Borough of Port Carbon.
- B. A person subject to the tax shall be assessed by the employer a pro-rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro-rata share of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro-rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest 1/100 of a dollar. Collection of the tax shall be made on a payroll-period basis for each payroll period in which the person is engaging in an occupation, except as provided in Subsection D of this section. For purposes of this subsection, "combined rate" shall mean the aggregate annual rate of the tax levied by the school district and the Borough.
- C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
- D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement will be provided on the form approved by DCED or the Borough.
- E. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be

employed. The Borough shall provide a taxpayer a receipt of payment upon request by the taxpayer. The tax shall be \$52 per year collected on a pro-rata basis as set forth in this article.

- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the Borough if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of § 212-61B of this article and this section and remits the amount so withheld in accordance with this article.
- G. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of a calendar year.

§ 212-63. Returns.

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

§ 212-64. Dates for determining tax liability and payment.

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

§ 212-65. Self-employed individuals.

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

§ 212-66. Individuals engaged in more than one occupation or employed in more than one political subdivision.

- A. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:
- (1) First, the political subdivision in which a person maintains his or her principal

office or is principally employed;

- (2) Second, the political subdivision in which the person resides and works, if the tax is levied by that political subdivision; and
- (3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

B. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivision.

§ 212-67. Nonresidents subject to tax.

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

§ 212-68. Administration of tax.

- A. The Collector shall be appointed by resolution of the Borough Council. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received.
- B. The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered, subject to Borough Council approval, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and collection of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal to the Court of Common Pleas of Schuylkill County as in other cases provided.
- C. The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

§ 212-69. Suits for collection.

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.
- B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax, and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection as well as filing.
- C. Actions for collection of tax or actions to seek penalties for violations may be enforced through any legal means available to the Borough, including, but not limited to, summary citation, civil suit, action in equity, or any other means available.

§ 212-70. Violations and penalties.

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

§ 212-71. Interpretation.

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

ARTICLE VIII

**Tax Receiver Fees for Additional Services
[Adopted 12-11-2007 by Ord. No. 7-2007]****§ 212-72. Tax certifications.**

The Borough of Port Carbon Tax Receiver is hereby authorized to impose a ten-dollar fee per parcel for providing tax certifications onto financial institutions, title insurance companies and law offices with regard to inquiries and real estate settlements.

§ 212-73. Tax duplicate forms.

The Borough of Port Carbon Tax Receiver is hereby authorized to impose a five-dollar fee per parcel for production of tax duplicate forms.

