

CHAPTER 24

TAXATION, SPECIAL

PART 1

EARNED INCOME AND NET PROFITS TAX

- §24-101. Short Title
- §24-102. Authority
- §24-103. Effective Date
- §24-104. Incorporation by Reference
- §24-105. Definitions
- §24-106. Imposition of Tax
- §24-107. Declaration and Payment of Tax on Net Profits
- §24-108. Return and Payment of Tax on Earned Income
- §24-109. Collection of Source
- §24-110. Property Owner to Provide Income Tax Officer With Information Regarding Identify of Tenants
- §24-111. Powers and Duties of Income Tax Officer
- §24-112. Enforcement
- §24-113. Interest, Fines and Penalties
- §24-114. Limitation on Rate of Tax
- §24-115. Penalties for Violations

PART 2

REALTY TRANSFER TAX

- §24-201. Short title
- §24-202. Authority
- §24-203. Definitions
- §24-204. Imposition of Tax; Interest
- §24-205. Exempt Parties
- §24-206. Excluded Transactions
- §24-207. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof
- §24-208. Acquired Company
- §24-209. Credits Against Tax
- §24-210. Extension of Lease
- §24-211. Proceeds of Judicial Sale
- §24-212. Duties of Recorder of Deeds
- §24-213. Statement of Value
- §24-214. Civil Penalties
- §24-215. Liens
- §24-216. Enforcement

TAXATION, SPECIAL

- §24-217. Regulations
- §24-218. Payment To Tax Collector
- §24-219. Tax Collector's Duty to Account
- §24-220. Unlawful Acts
- §24-221. Tax Collector's Bond

PART 3

BUSINESS PRIVILEGE TAX

- §24-301. Short Title
- §24-302. Definitions
- §24-303. Applicability of Part
- §24-304. Place of Business
- §24-305. Gross Receipts
- §24-306. Cash or Accrual Basis
- §24-307. Deductions From Gross Receipts
- §24-308. Exclusions
- §24-309. Interstate commerce Exemptions
- §24-310. Either Business Privilege Registration or Mercantile License Required
- §24-311. Certificate of Acquisition
- §24-312. Registration Period
- §24-313. Registration Fees
- §24-314. Late Charges
- §24-315. Forms and Where to File
- §24-316. Tax
- §24-317. Requirement of Filing Return
- §24-318. Time of Filing
- §24-319. Estimated Gross Receipts
- §24-320. Payment of Tax
- §24-321. Duties of the Collector
- §24-322. Books and Records
- §24-323. Inspection and Examination
- §24-324. Suits for Recovery of Unpaid Taxes
- §24-325. Penalty and Interest for Non-Payment
- §24-326. Particular Business or Transactions
- §24-327. Fines and Penalties for Violation of Act
- §24-328. Limitations
- §24-329. Construction
- §24-330. Conflict of Laws
- §24-331. Collector's Bond

PART 4

MERCANTILE LICENSE TAX

- §24-401. Short Title
- §24-402. Definitions
- §24-403. Applicability of Part
- §24-404. Place of Business
- §24-405. Gross Receipts
- §24-406. Cash or Accrual Basis
- §24-407. Deductions from Gross Receipts
- §24-408. Exclusions
- §24-409. Interstate Commerce Exemption
- §24-410. Mercantile License Registration
- §24-411. Mercantile License
- §24-412. License Period
- §24-413. License Fee
- §24-414. Late Charges
- §24-415. Forms and Where to File
- §24-416. Tax
- §24-417. Requirement of Filing Return
- §24-418. Time of Filing
- §24-419. Estimated Gross Receipts
- §24-420. Payment of Tax; Credits
- §24-421. Duties of the Collector
- §24-422. Books and Records
- §24-423. Inspection and Examination
- §24-424. Suits for Recovery of Unpaid Taxes
- §24-425. Penalty and Interest for Non-Payment
- §24-426. Fines and Penalties for Violations of Act
- §24-427. Limitations
- §24-428. Construction
- §24-429. Conflict of Laws
- §24-430. Collector's Bond

PART 5

LOCAL TAXPAYERS BILL OF RIGHTS

- §24-501. Short Title
- §24-502. Definitions
- §24-503. Disclosure Statement
- §24-504. Requirements for Request
- §24-505. Refunds of Overpayment
- §24-506. Interest on Overpayment
- §24-507. Notice of Basis of Underpayment
- §24-508. Abatement of Certain Interest and Penalty

TAXATION, SPECIAL

- §24-509. Application of Payments
- §24-510. Administrative Appeals
- §24-511. Petitions
- §24-512. Practice and Procedure
- §24-513. Decisions
- §24-514. Appeals
- §24-515. Equitable and Legal Principles to Apply
- §24-516. Installment Agreements
- §24-517. Confidentiality of Tax Information
- §24-518. Taxes on Real Property

PART 6

REAL PROPERTY TAX AND SEWER RENT

- §24-601. Discount Period; Amount
- §24-602. Penalty Period; Amount
- §24-603. Collection of Tax; Penalty
- §24-604. Exemptions

PART 7

EMERGENCY AND MUNICIPAL SERVICES TAX

- §24-701. Title
- §24-702. Applicability
- §24-703. Tax Rate
- §24-704. Exemptions
- §24-705. Purpose
- §24-706. Collection Through Employers

PART 1

EARNED INCOME AND NET PROFITS TAX

§24-101. Short Title.

This Part shall be known and referred to as the "Rockledge Earned Income Tax Ordinance."

(Ord. 493, 11/30/1992, §1)

§24-102. Authority.

This Part is enacted under the authority of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, no. 511, 53 P.S. §§6901-24 as amended and as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

(Ord. 493, 11/30/1992, §2)

§24-103. Effective Date.

This Part shall become effective January 15, 2001, and shall continue in force on a calendar year basis thereafter without annual reenactment.

(Ord. 493, 11/30/1992, §3; as amended by Ord. 563, 12/11/2000, §1)

§24-104. Incorporation by Reference.

The provisions of §13 of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, No. 511 as amended, and any other sections of said Act which are referred to in this Part are adopted by reference and incorporated herein the same as if said provisions have been fully set forth at length, as an integral part of this Part; except to the extent that options are provided in said §13, this Part designates the option selected, and except as and where hereinafter specifically provided otherwise.

(Ord. 493, 11/30/1992, §4)

§24-105. Definitions.

All words and phrases, when used in this Part, shall have the meanings ascribed to them by §13 of the Local Tax Enabling Act, and other words and phrases used in this Ordinance or in §13 of the Local Tax Enabling Act, shall have the following meaning:

TAXATION, SPECIAL

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). Employee 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. [Ord. 590]

GOVERNING BODY — the Borough of Rockledge.

INCOME TAX OFFICER — the Borough of Rockledge Tax Collector.

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:

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

[Ord. 590]

SECTION 13 OF THE TAX ACT — §6913 of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, as amended, 53 P.S. Sec. 6913, and the Articles and Paragraphs and provisions thereunder.

(Ord. 493, 11/30/1992, §5; as amended by Ord. 590, 3/14/2005, §1)

§24-106. Imposition of Tax.

1. A tax for general revenue purposes of 1% is hereby imposed on the following: [Ord. 584]
 - A. Earned income received or paid by residents of the Borough of Rockledge on and after January 1, 1993 and every year thereafter.

- B. The net-profits earned on and after January 1, 1993 and every year thereafter, of businesses, professions or other activities conducted by residents of the Borough of Rockledge. [Ord. 563]
2. Imposition of Tax on Nonresidents. A tax for general revenue purposes of 1% is hereby imposed on the following: [Ord. 584]
 - A. Earned income received or paid on and after January 1, 1993 and every year thereafter, by nonresidents of the Borough of Rockledge for work done or services performed or rendered in the Borough of Rockledge.
 - B. Net-profits earned on and after January 1, 1993 and every year thereafter, of businesses, professions or other activities conducted by nonresidents of the Borough of Rockledge. [Ord. 503]
 3. The tax levied under subsections (1)(A) and (2)(A) of this Section shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to any person who is employed by or renders services to him. The tax levied under subsection (1)(B) and (2)(B) of this Section will relate to and be imposed on the net profits of any business, profession or enterprise carried on by any person as owner or proprietor, either individually or in association with some other person or persons.

(Ord. 493, 11/30/1992, §6, as amended by Ord. 563, 12/11/2000, §2; and by Ord. 584, 10/27/2003, §1)

§24-107. Declaration and Payment of Tax on Net Profits.

1. Net profits on and after January 1, 1993. Beginning January 1, 1993, every taxpayer who reasonably expects to make net profits shall on or before April 15 of the current year, make and file with the Income Tax Officer, on a form prescribed by said 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 installment the tax due thereon as follows:
 - A. The first installment at the time of filing of the declaration.
 - B. The other installments on or before June 15 of the current year, September 15 of the current year.
 - C. January 15 of the succeeding year, respectively.
2. Any taxpayer who first anticipates any net profits after April 15, of a current year, shall make and file with the Income Tax officer, the required declaration of his estimated net profits in accordance with the provisions of Article III, Paragraph A(2) of §13 of the Tax Act.

TAXATION, SPECIAL

3. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Income Tax Officer, a final return for the current year in accordance with Article III, Paragraph A(3) of §13 of the Tax Act.
4. The Income Tax Officer may provide by regulation for the making and filing of adjusted declarations of estimated net profits in accordance with Article III, Paragraph A(4) of §13 of the Tax Act.
5. Any taxpayer may, in lieu of paying the fourth quarter installment of his estimated tax elect to make and file with the Income Tax Officer on or before January 31 of the succeeding year, the final return as hereinafter required and pay the tax due.
6. Every taxpayer who discontinues business prior to December 31, of the current year, shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

(Ord. 493, 11/30/1992, §7)

§24-108. Return and Payment of Tax on Earned Income.

1. Every taxpayer shall, on or before April 15 of the succeeding year, make and file an annual return showing the amount of earned income received during the current year, in accordance with Article III, Paragraph B, of Section 13 of the Tax Act.
2. Every taxpayer who receives any earned income not subject to the provisions of this Part relating to collection at source shall make and file with the Income Tax 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 and shall pay to the Income Tax Officer the amount of tax shown as due thereon, in accordance with Article III, Paragraph B(2) of §13 of the Tax Act.

(Ord. 493, 11/30/1992, §8)

§24-109. Collection at Source.

1. Every employer having an office, factory, branch, warehouse or other place of business within the Borough of Rockledge, who employes one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall register with the Income Tax Officer, deduct the tax imposed by this Part on the income of his employee or employees and shall make and file quarterly returns and pay quarterly to said officer the amount of taxes deducted, in accordance with Article IV of §13 of the Tax Act.

2. Every employer having a place of business within the Borough of Rockledge shall make quarterly returns showing withholding and payment of the tax 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, and pay to the Tax Officer the amount of taxes during the preceding three month period 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, in accordance with Article IV, Paragraph (b) of §13 of the Tax Act.
3. Every employer shall comply with all other provisions of §13 of the Tax Act.

(Ord. 493, 11/30/1992, §9)

§24-110. Property Owners to Provide Income Tax Officer With Information Regarding Identity of Tenants.

By January 31st of the current year and January 31st of each succeeding year that this Part is in effect, each property owner of an improved property located in the Borough of Rockledge shall provide to the Income Tax Officer, the name and address of each tenant over 18 years who occupies said property.

(Ord. 493, 11/30/1992, §10)

§24-111. Powers and Duties of Income Tax Officer.

1. The Borough of Rockledge shall appoint an Income Tax Officer, fix the amount of his compensation and bond, and designate the custodian of the bond, as provided by Article V and VI of §13 of the Tax Act.
2. The Income Tax Officer shall have all the powers and duties provided by §13 of the Tax Act, including the power to adopt and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part.

(Ord. 493, 11/30/1992, §11)

§24-112. Enforcement.

Collection and payment of the tax imposed by this Part may be enforced by suit, distress and sale in accordance with the provisions of §13 of the Tax Act, subject to the limitations imposed thereunder.

(Ord. 493, 11/30/1992, §12)

§24-113. Interest, Fines and Penalties.

Interest, fines, penalties and costs shall be charged and collected as provided in Articles VIII and IX of §13 of the Tax Act.

(Ord. 493, 11/30/1992, §13)

§24-114. Limitation on Rate of Tax.

In the event that any other political subdivision imposes an earned income tax which is a duplication of the earned income tax herein imposed, the tax herein imposed shall be reduced in accordance with the provisions of §8 of the Local Tax Enabling Act, as amended, for the period of such duplication.

(Ord. 493, 11/30/1992, §14)

§24-115. Penalties for Violations.

1. Any person who fails, neglects or refuses to make any declaration or return required by this Part, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the officer or any agent designated by him to examine his books, records and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part, shall, upon conviction therefore before any district justice, or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and in default of payment, to be imprisoned for a period not exceeding 30 days.
2. Any person who divulges any information which is confidential under the provisions of this Part, shall, upon conviction therefore, before any district justice, or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and in default of payment, to be imprisoned for a period not exceeding 30 days.
3. The penalties imposed under this Section shall be in addition to any other penalty imposed by any other Section of this ordinance.
4. The failure of any person to receive or procure forms required for making the declaration or returns required by this ordinance shall not excuse him from making such declaration or return.

(Ord. 493, 11/30/1992; as added by Ord. 590, 3/14/2005, §1)

PART 2

REALTY TRANSFER TAX

§24-201. Short Title.

This ordinance shall be known as the "Realty Transfer Tax Ordinance of Rockledge Borough."

(Ord. 444, 4/15/1987, §2)

§24-202. Authority.

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

(Ord. 444, 4/15/1987, §3)

§24-203. Definitions.

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

BOROUGH — shall mean the Borough of Rockledge, Montgomery County, Pennsylvania.

BOROUGH TREASURER — shall mean the Borough Treasurer of the Borough of Rockledge, Montgomery County, Pennsylvania.

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

DOCUMENT — any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments or like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding thirty years, or instruments which solely grant, vest or con-

TAXATION, SPECIAL

firm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under section 2 of this ordinance.

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

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

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

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

REAL ESTATE

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

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

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

TAX — shall mean the tax levied, assessed and imposed by this Part.

TAX COLLECTOR — shall mean the recorder of deeds of Montgomery County, Pennsylvania.

TITLE TO REAL ESTATE

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

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

VALUE

- A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefore, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate: Provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale.

TAXATION, SPECIAL

- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations.
- C. In the case of an easement or other interest in real estate the value of which is not determinable under subsection (A) or (B), the actual monetary worth of such interest; or
- D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Ord. 444, 4/15/1987, §4)

§24-204. Imposition of Tax; Interest.

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.
2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
3. It is the intent of this Part that the entire burden of the tax imposed herein on person or transfer shall not exceed the limitation prescribed in The Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §6901 et seq., so that if any other political subdivision shall impose of hereafter shall impose such tax on the same person or transfer than the tax levied by the Borough of Rockledge under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate and such one-half rate shall become effective without any action on the part of the Borough of Rockledge provided, however, that the Borough of Rockledge and any other political subdivision which impose such tax on the same person or transfer may

agree that, instead of limiting their respective rates to one-half of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under "The Local Enabling Act."

4. If for any reason the tax is not paid when due, interest at the rate of 1/2% per month shall be added and collected.

(Ord. 444, 4/15/1987, §5)

§24-205. Exempt Parties.

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

(Ord. 444, 4/15/1987, §6)

§24-206. Excluded Transactions.

The tax imposed by §24-205 shall not be imposed upon:

- A. A transfer to the Commonwealth, or any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property fine adjustments provided said reconveyance is made within one year from the date of condemnation.
- B. A document which the Borough of Rockledge is prohibited from taxing under the Constitution or statutes of the United States.
- C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.
- D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- E. A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

TAXATION, SPECIAL

- F. A transfer between husband and wife, between persons which were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within 1 year shall be subject to tax as if the grantor were making such transfer.
- G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- I. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- J. A transfer for no or nominal actual consideration from trustee to successor trustee.
- K. A transfer (1) for no or nominal actual consideration between principal and agent or straw party; or (2) from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part.

Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.

- L. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is in avoidance of the tax imposed by this Part.
- M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the

stock of the corporation of the interest in the association has been held by the grantee for more than 2 years.

- N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt or the grantee or a transfer to a nonprofit industrial development agency or authority.
- O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and the agency or authority has the full ownership interest in the real estate transferred.
- P. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- R. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1954, (68A Stat. 3, 26 U.S.C. §501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
- S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
- T. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
- U. A transaction wherein the tax due is \$1 or less.
- V. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

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

TAXATION, SPECIAL

(Ord. 444, 4/15/1987, §7)

§24-207. Documents Relating to Associations or Corporation and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in §24-206, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders, thereof are fully taxable. For the purposes of this article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(Ord. 444, 4/15/1987, §8)

§24-208. Acquired company.

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

(Ord. 444, 4/15/1987, §9)

§24-209. Credits Against Tax.

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

2. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
3. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of the tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
3. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
4. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed.

(Ord. 444, 4/15/1987, §10)

§24-210. Extension of Lease.

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

(Ord. 444, 4/15/1987, §11)

§24-211. Proceeds of Judicial Sale.

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

(Ord. 444, 4/15/1987, §12)

§24-212. Duties of Recorder of Deeds.

1. As provided in 16 P.S. §11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 210, the Recorder of Deeds shall be the collection agent for the Local Realty Transfer Tax, including any amount payable to the Borough of Rockledge based

TAXATION, SPECIAL

on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania Realty Transfer Tax, without compensation from the Borough of Rockledge.

2. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.
3. On or before the tenth of each month, the Recorder shall pay over to the Borough of Rockledge all local realty transfer taxes collected, less 2% for use of the county, with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania Realty Transfer Tax. The 2% commission shall be paid to the county.
4. Upon a redetermination of the amount of Realty Transfer Tax due by the Commonwealth of Pennsylvania, the Recorder shall re-record the deed or record the additional Realty Transfer Tax Form only when both the State and local amounts and a re-recording or recording fee has been tendered.

(Ord. 444, 4/15/1987, §13)

§24-213. Statement of Value.

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

(Ord. 444, 4/15/1987, §14)

§24-214. Civil Penalties.

1. If any part of any underpayment of tax imposed by this Part is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.

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

(Ord. 444, 4/15/1987, §15)

§24-215. Lien.

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

(Ord. 444, 4/15/1987, §16)

§24-216. Enforcement.

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

(Ord. 444, 4/15/1987, §17)

§24-217. Regulations.

The Tax Collector of the Borough of Rockledge is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §8101-C et seq. are incorporated herein and made a part of this Part.

(Ord. 444, 4/15/1987, §18)

TAXATION, SPECIAL

§24-218. Payment to Tax Collector.

The tax shall be paid to the Tax collector, who is hereby charged with the collection thereof. The Tax Collector shall account for and pay over to the Borough all taxes collected hereunder.

(Ord. 444, 4/15/1987, §19)

§24-219. Tax Collector's Duty to Account.

Each month, the Tax Collector shall furnish the Borough Treasurer with a list of the transfers made during the preceding month, together with a list of taxes received, and shall make payment of such taxes, which records shall be kept by the Treasurer.

(Ord. 444, 4/15/1987, §20)

§24-220. Unlawful Acts.

It shall be unlawful for any person to:

- A. Fail to comply with any of the provisions of requirements of this Section.
- B. Fail to pay the tax imposed by this Section.
- C. Make use of any stamp, rubber stamp or certificate to denote payment of any tax imposed by this Section without appropriate and proper authority, or in the case of the use of adhesive stamps, to make use of any such stamp without properly cancelling the same.
- D. Fail, neglect or refuse to comply with or violate the rules and regulations that may be prescribed or adopted or promulgated by the Tax collector.
- E. Fraudulently cut, tear or remove a stamp or a certificate from any deed.
- F. Fraudulently affix to any deed upon which the tax is imposed by this section any stamp that has been cut, torn or removed from any other deed, or any deed stamp of insufficient value, or any forged or counterfeit stamp or impressions or certifications.
- G. Willfully remove or alter the cancellation marks of any deed stamp, or restore any such deed stamp with intent to use or cause the same to be used after it had already been used. Or to buy, sell or offer for sale, or give away any such altered or restored stamp.

(Ord. 444, 4/15/1987, §21)

§24-221. Tax Collector's Bond.

The Borough Council may, in its discretion by motion, require the Tax Collector to give bond to the Borough with surety or sureties as it may approve, and in such amount as Borough Council may stipulate, conditioned upon the effective performance of his duties hereunder. Borough Council may, by said motion, provide for the payment of the premium on any such bond by the Borough.

(Ord. 444, 4/15/1987, §22)

PART 3

BUSINESS PRIVILEGE TAX

§24-301. Short Title.

This Part enacted hereunder shall be known as the "Business Privilege Tax."

(Ord. 452, 3/14/1988, §1)

§24-302. Definitions.

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

PERSON — an individual, a partnership, a limited partnership, an association, a corporation of any other legal entity which engages in a taxable activity.

BUSINESS, TRADES, OCCUPATIONS, PROFESSIONS, AND VOCATIONS — shall include, but not be limited to, all businesses, trades, occupations, professions and vocations in which there is offered any service or services to the general public or a limited number thereof including those enterprises engaged in by hotel operators, motel operators, parking lot and garage operators, warehousemen, lessors of real and tangible personal property, physicians and surgeons, osteopaths, podiatrists, chiropractors, veterinarians, optometrists, pharmacists, lawyers, dentists, engineers, architects, chemists, certified public accountants, public accountants, funeral directors, promoters, factors, commission merchants, agents, brokers, manufacturer's representatives, advertising and public relations agencies, real estate brokers, insurance brokers and agents, cable television operators, operators of places of amusement providing either passive or active recreation, vending machine operators, barber shop operators and beauty shop operators, cleaning, pressing and dyeing establishment operators, laundry operators, shoe repair shop operators, tailors, upholsterers, electrical, plastering, bricklaying, carpentry, heat, ventilating, plumbing and painting contractors engaged in the class of heavy building or other construction of any kind or in the alteration, maintenance, or repair thereof, repairers or consultants of electrical electronic and automotive machinery or equipment or other machinery and equipment and other wares and merchandise. The terms as hereinbefore defined in this section, shall not include the following: employees, agencies of the government of the United States or of the Commonwealth of Pennsylvania, or nonprofit corporations or associations organized solely and exclusively for religious, educational or charitable purposes and not conducting any regular or established business competing commercially with any other person, subject to the tax herein imposed or those persons, entities, transactions and other matters exempted by the provisions of the Local Tax Enabling Act or other applicable law.

TAXATION, SPECIAL

SERVICE — any act of instance of helping or benefiting another for a consideration.

TAX YEAR — the 12 month period beginning the first day of January and ending the last day of December.

GROSS RECEIPTS — include both cash and credit transactions made by a person for services rendered, including both services, labor and any materials entered into or becoming component parts of the services performed within the Borough.

COLLECTOR — the Collector of Business Privilege and Mercantile License Taxes of the Borough of Rockledge, or any other person from time to time designated by Borough Council.

TEMPORARY, SEASONAL, OR ITINERANT BUSINESS — any business that is conducted at one location for less than 60 consecutive calendar days.

BOROUGH — the Borough of Rockledge.

SECRETARY — the Secretary of the Borough of Rockledge.

(Ord. 452, 3/14/1988, §2)

§24-301. Applicability of Ordinance.

1. The registration and tax provisions of this Part apply to any person engaging in any business, trade, occupation, profession or vocation in which there is offered any service or services to the general public or a limited number of the general public for a consideration except for persons who are wholesale or retail vendors or dealers in goods or who conduct restaurants or other places where food or beverages are sold and who are thus subject to the Mercantile Tax.
2. This Part applies not only to businesses in existence at the beginning of the license year, but also to businesses begun during the tax year or carried on in the Borough for any part of the tax year.

(Ord. 452, 3/14/1988, §3)

§24-304. Place of Business.

1. If the taxpayer has a place of business in the Borough and one or more places of business outside the Borough, only those receipts properly allocable to the place of business in the Borough are taxable. For this purpose a person may be considered to have a place of business outside the Borough, if services are rendered at a fixed location outside the Borough which are of such duration, size and complexity that the person would be considered doing business at such location.

2. Generally, receipts will be considered allocable to the place of business in the Borough if any significant aspect of the transaction occurs at or arises out of the place of business. For example, if a contract is made at the place of business in the Borough, the receipts arising from that contract may be allocable to the Borough even though all or part of the contract is to be performed outside the Borough. The fact that the receipts from any transaction may be subject to tax in the jurisdiction outside the Borough does not necessarily mean that those receipts are not allocable to the Borough and subject to this tax. However, in appropriate cases, the principles set out in §24-309 below, may be applied to allocate business within and without the Borough.

(Ord. 452, 3/14/1988, §4)

§24-305. Gross Receipts.

In general, the gross receipts upon which the tax is imposed is the value of all cash, credits or property received by a person which is attributable to the carrying on of business in the Borough, undiminished by any costs of doing business. A receipt generally will be considered attributable to the Borough if any part of the transaction or service giving rise to the receipt takes place within the Borough. The broad reach of this general rule is limited in certain situations by the ordinance and by State and Federal law as more fully explained hereinafter.

(Ord. 452, 3/14/1988, §5)

§24-306. Cash or Accrual Basis.

A tax return may be filed on a cash basis or on an accrual basis, but the return must be prepared in accordance with the method of accounting regularly employed in keeping the books of the taxpayer. A person who keeps his books on the cash basis will report his gross receipts on the basis of amounts actually received during the period used as the measure of the tax. A taxpayer who keeps his books on the accrual basis will report the receipts from all sales made or services rendered during the period used as the measure of the tax, irrespective of the date when such moneys are collected from the customer. In either case, the taxpayer must file on a calendar year basis beginning January 1 and ending December 31, regardless of the taxpayer's fiscal year.

(Ord. 452, 3/14/1988, §6)

§24-307. Deductions from Gross Receipts.

1. Refunds, credits or allowances given by a person to a customer on account of defects in services rendered or in goods, wares, and merchandise sold or returned, may be deducted from the amount of the "gross receipts" of the person.

TAXATION, SPECIAL

2. Adjustments allowed to customers may be deducted from "gross receipts" if they are deducted on the face of the invoice as a medium of adjusting the price or fee for the service and if they are not reimbursed to the person by his supplier or some other person.
3. Federal, State and local taxes are not included in "gross receipts" if they are collected from the customer and are separately stated on the evidence of charge or sale.

(Ord. 452, 3/14/1988, §7)

§24-308. Exclusions.

This Part excludes from the definition of gross receipts the receipts from services performed from a place of business regularly maintained outside the Borough by the taxpayer to a place of business regularly maintained outside the Borough by the customer, provided that such performance is not made for the purpose of evading the tax. Services or deliveries to a residence located outside the Borough do not qualify for this exclusion. Also, this exclusion does not apply to factors or commission merchants except with respect to sales of goods which they have taken title to and sold for their own account.

(Ord. 452, 3/14/1988, §8)

§24-309. Interstate Commerce Exemption.

Under certain circumstances receipts from sales in interstate or foreign commerce may be exempt from tax in whole or in part, even though they are allocable to a place of business in the Borough under §24-304 above. Receipts are not automatically exempt from tax merely because the sale invoices interstate or foreign commerce. The controlling principles in determining whether any such receipts are subject to tax are that there be some nexus between the business activity carried on in the Borough and the imposition of the tax and that there be a fair method of allocation of receipts to the business carried on in the Borough which will avoid an undue burden on interstate commerce. Bearing these principles in mind, the following methods of allocation will be followed by the Borough:

- A. Receipts directly payable or paid to a place of business located within the Borough shall be considered allocable to the Borough and subject to tax.
- B. If the Collector determines, either upon his own initiative or upon application by the taxpayer, that the receipts covered in subsection (A) above do not properly reflect all receipts attributable to the activity carried on in the borough, then to the extent possible (bearing in mind the accounting system used by the taxpayer and any other information reasonably capable of being derived from the books and records of the taxpayer) a separate accounting

shall be made with respect to each place of business in the Borough and all receipts attributable to the place of business shall be considered allocable to the Borough and subject to tax.

- C. If the Collector determines, either on his own initiative or upon application by the taxpayer, that the provisions of subsections (A) and (B) above do not properly reflect all receipts attributable to the activity carried on in the Borough, a different method of allocation may be used, with due regard to the extent of the receipts, property and wages of the taxpayer within the Borough, the nature of the business concerned, the number of jurisdictions in which the receipts may be taxed, and such other factors as may be considered relevant.
- D. All receipts from interstate commerce, whether taxable or nontaxable under the foregoing rules, must be included on the return filed by the taxpayer and a deduction for the nontaxable receipts shall be allowed thereon.

(Ord. 452, 3/14/1988, §9)

§24-310. Either Business Privilege Registration or Mercantile License Required.

A person who may engage in a business with gross receipts from wholesale or retail sales of merchandise or restaurant as well as receipts from services, is not required to obtain both a registration certificate under this Part and a mercantile license under the Mercantile License Tax Ordinance. Either a Mercantile License or a Business Privilege Registration, whichever is appropriate to the majority of the taxpayer's gross receipts, shall be obtained.

(Ord. 452, 3/14/1988, §10)

§24-311. Certificate of Registration.

A separate certificate of registration must be obtained each year for each place of business in the Borough. The certificate must be obtained on or before the first day of each new tax year (as defined above) if the business was begun prior to that tax year. If a business is begun or a new place of business established during the tax year, the certificate must be obtained prior to commencing business. The certificate shall be valid for the location for which it was issued and the applicant only and shall not be assignable.

(Ord. 452, 3/14/1988, §11)

TAXATION, SPECIAL

§24-312. Registration Period.

The certificate is issued for a tax year (as defined above) of each year. A certificate obtained at any time during the year is valid only from the date of issue until the end of the year with respect to which it is issued.

(Ord. 452, 3/14/1988, §12)

§24-313. Registration Fees.

Before the issuance of a certificate the applicant shall make payment to the Collector of a registration fee for each place of business. The fee shall be \$10.

(Ord. 452, 3/14/1988, §13)

§24-314. Late Charges.

All registration fees due under this Part and not paid by the first day of the tax year (as defined above) shall bear interest at the rate of 1% per month, or fractional part of a month, from the day they are due and payable until paid. If any person shall neglect or refuse to obtain a registration certificate as herein required, an additional penalty of 10% of the registration fee shall be added by the Collector and collected.

(Ord. 452, 3/14/1988, §14)

§24-315. Forms and Where to File.

1. The application for certificate of registration forms shall be available from the Collector appointed by the Borough. Failure to obtain or receive the application form shall not excuse any person from the obligation to file and obtain the registration certificate or the business privilege tax return or payment of the applicable tax hereunder.
2. Each application for registration shall be signed by the applicant if a natural person, and in the case of an association or a partnership, by a member or partner thereof, and in the case of a corporation, by an officer thereof.
3. All applications for certificate of registration shall be filed with the collector at the address specified by the Collector.
4. In the case of loss, defacement, or destruction of any certificate, the person to whom the certificate was issued shall apply to the Collector for a new certificate for which a fee of \$1 shall be charged.

(Ord. 452, 3/14/1988, §15)

§24-316. Tax.

1. Every person engaging in a business, trade, occupation, profession or vocation in the Borough shall pay an annual Business Privilege Tax for the year at the rate of 1 1/2 mills on his gross receipts; provided, however, that in no event shall the annual Business Privilege Tax herein imposed be less than \$15.
2. All persons required to pay a Business Privilege Tax under the provisions of this section shall be exempted from paying such tax upon the same subject matter of taxation upon which they are required to pay a Mercantile License Tax under that section applicable to the latter tax.

(Ord. 452, 3/14/1988, §16)

§24-317. Requirement of Filing Return.

A return must be filed and an estimated tax must be paid for each tax year at the time set forth in §24-318 below. The estimated tax is computed on the estimated gross receipts for the tax year which is determined as described in §24-319 below. At the end of each tax year the actual gross receipts for the year must be determined and an appropriate adjustment made in the tax due. This adjustment will be shown on the final return for the tax year. The final return for the prior tax year will be combined with, and thus filed at the same time as, the estimated return for the current year and a single payment made in an amount equal to the estimated tax for the current year, increased or decreased by the adjustment for actual gross receipts for the prior year.

(Ord. 452, 3/14/1988, §17)

§24-318. Time of Filing.

Every person subject to this Part shall file a return as follows:

- A. If the person has commenced business whether for a full year or less than 1 full year prior to January 1 of a tax year, the return shall be filed on or before May 1 following the tax year.
- B. If the person commences business after the start of any tax year (as defined above), the return shall be filed within 40 days from the date of commencing business.
- C. If the person is engaged in a business which is temporary, seasonal or itinerant in its nature, the return shall be filed within 7 days of the date of the completion of such business.

TAXATION, SPECIAL

- D. If the person discontinues, terminates or otherwise ceases business activity at the registered location, the return shall be filed within 30 days of such cessation of business activity.

(Ord. 452, 3/14/1988, §18)

§24-319. Estimated Gross Receipts.

The estimated gross receipts for any tax year shall be determined as follows:

- A. If the taxpayer has been engaged in business in the Borough for a full year prior to January 1 of a tax year, the actual gross receipts for that prior year shall be the estimated gross receipts for the tax year.
- B. If the taxpayer has been engaged in business in the Borough prior to January 1 of the tax year but for less than 1 full year, the estimated gross receipts for any tax year shall be the average monthly gross receipts for the prior year multiplied by 12.
- C. If the taxpayer commences business in the Borough during the tax year, the estimated gross receipts shall be determined by multiplying the gross receipts for the first month of business by the number of months remaining in the tax year.
- D. In the case of a temporary, seasonal or itinerant business for which a return is filed as provided in paragraph §24-318 above, no estimate is computed. Instead, the tax is imposed on the actual gross receipts during the period covered by the return.
- E. Any person who engages in business with gross receipts from wholesale or retail sales of merchandise or from a restaurant and from service, who registers under this Part, as opposed to the Mercantile License Tax Ordinance, shall combine and report gross receipts in a single return, but at the rates applicable, respectively, to gross receipts under the Business Privilege Tax or Mercantile License Taxes.

(Ord. 452, 3/14/1988, §19)

§24-320. Payment of Tax; Credits.

- 1. At the time of filing the tax return on May 1 of any tax year, except as herenbefore provided, the person shall pay in a single payment an amount equal to the estimated tax for the current tax year and any balance due for actual gross receipts for the prior tax year at the rates applicable under the Business Privilege Tax.

2. Any person with a decrease in actual gross receipts from that estimated on the prior year's return shall be entitled to a credit on the estimated tax for the current year in an amount equal to the overpayment of tax for the prior year.
3. To the extent that a person as defined in this Part is located in the Borough and has paid Business Privilege Taxes to another taxing jurisdiction for a place of business outside the Borough under those conditions referred to in section §24-304, for any taxable year commencing with 1987, in good faith and not for purposes of evading this taxing ordinance, for which said person has also paid taxes to the Borough of Rockledge, the Borough will give a tax credit to said person up to the dollar amount of taxes represented, based upon the taxing rate in existence in Rockledge for the tax year in which paid. Sufficient proof and documentation should be submitted with the filing of the return to enable the Collector to make a determination as to whether the request for credit is proper on a case by case basis.

(Ord. 452, 3/14/1988, §20)

§24-321. Duties of the Collector.

1. It shall be the duty of the Collector to collect and receive all fees, taxes, interest, files and penalties imposed by this Part and to maintain a record of all payments received, the date thereof and to issue receipts therefore.
2. The Collector shall pay all fees, taxes, interest, files and penalties collected, received or recovered under the provisions of this Part into the Treasury of the Borough for the use and benefit of the Borough.

(Ord. 452, 3/14/1988, §21)

§24-322. Books and Records.

The Collector may request such books and accounting records as will enable him to determine the accuracy of the taxpayer's return. The taxpayer claiming exemptions or exclusions for any portion of his gross receipts must maintain complete records of such items; otherwise such claims will be disallowed.

(Ord. 452, 3/14/1988, §22)

§24-323. Inspection and Examination.

The Collector is authorized to examine not only the books, papers and records of any taxpayer or supposed taxpayer in order to verify the accuracy of any return made, or if no return was made, to ascertain whether a tax should be imposed and, if so, the amount of such tax. He is further authorized to examine any person connected with any

TAXATION, SPECIAL

business concerning any gross receipts of the business which were or should have been returned for taxation, and for this purpose may compel the production of books, papers, records and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of such business or gross receipts.

(Ord. 452, 3/14/1988, §23)

§24-324. Suits for Recovery of Unpaid Taxes.

Suits for recovery of taxes may be brought within the applicable statute of limitations in Pennsylvania commencing from the date of assessment or date due, whichever is later, by the Collector or Borough Solicitor, as other debts due the Borough are by law recoverable.

(Ord. 452, 3/14/1988, §24)

§24-325. Penalty and Interest for Non-Payment.

If for any reason the tax is not paid when due, interest at the rate of 1% of the amount of unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added to the tax. A penalty in the amount of 10% of the tax due shall be added if the taxpayer has neglected or refused to file a return or make any payment.

(Ord. 452, 3/14/1988, §25)

§24-326. Particular Business or Transactions.

1. **Administrative or Executive Offices.** Receipts of a taxpayer whose only office in the Borough is an administrative or executive office may or may not be taxable depending on the activity performed in the office. The general rule is that receipts for services will not be taxable in the Borough if no part of the service is performed in the Borough. If the activity at such an office relates only to internal bookkeeping functions of the taxpayer, then those activities are not part of the "service" which is being rendered to customers. However, administrative matters which do relate to the service rendered e.g., processing of orders, arranging shipments, making telephone calls to customers or clients, or overseeing or controlling employees engaged in performing such services are generally part of the service for which payment is received. Accordingly, if any of these kinds of services are performed at the place of business in the Borough, then the entire receipt for that service is a taxable receipt unless an allocation pursuant to §24-319 and §24-320 is appropriate. For rules with respect to the sale of goods, see the regulations relating to the Mercantile License Tax.
2. **Leased Departments.**

- A. Return by Lessor. Where a person leases a department of his business to another, such person shall include in his return all commissions charged to the lessee for rent, services rendered, property furnished or supplies, etc. A schedule must be attached to the return containing the name of the lessee, and a description of the department operated. Should a change occur in the ownership or status of any leased department, the lessor shall notify the Collector of such change.
 - B. Return by Lessee. Every lessee shall file his own return setting forth his entire gross receipts, without deducting any expense or commissions charged to him by the Lessor.
3. Persons Engaged in Professions, or Vocations, or in Rendering Personal Services.
- A. General. A person who is engaged in a profession or vocation or in rendering personal services in the Borough in any capacity, except as an employee of another, is subject to tax under this Part. All compensation, however characterized, received in such capacity must be included in the tax base.
 - B. Attorneys. An attorney may exclude that portion of the receipts from legal services which are distributed directly to or on behalf of a client such as a distribution of a sum of money recovered in a lawsuit, the sale of real estate, or a collection matter. An attorney may exclude any fee or portion of a fee paid to another attorney where a matter has been forwarded either from or to the first attorney to or by the second attorney except where either is an employee of the other (see generally §24-323).
 - C. Accountants. An accountant may exclude services rendered to clients outside of the Borough only if all activity connected with the rendering of such services, including the audit, summary and completion of the financial statement, takes place at the client's business situs outside the Borough.
 - D. Physicians and Surgeons.
 - (1) A physician with offices in the Borough must include in his gross receipts all revenues derived from such offices, i.e., place of business.
 - (2) A physician with offices located outside the Borough may exclude from gross receipts revenues derived from such offices, i.e., place of business.
 - (3) A physician with hospital affiliations within the Borough must include in his gross receipts all revenue derived or generated by his connection with such hospitals.
 - (4) A physician with hospital affiliations outside the Borough may deduct from gross receipts all revenues derived or generated by his connection with such hospitals.

TAXATION, SPECIAL

4. Principal and Agent.

- A. General. Receipts from sales made, or services rendered by an agent for the account of his principal are to be reported by the principal. It is immaterial in such cases whether the customer or client remits directly to the principal, or to the agent for transmittal to the principal. The agent is required to report as gross receipts only the commissions withheld by him as compensation for his services before remitting to this principal and any commission paid to him after remitting to his principal. No deduction from gross receipts may be taken by the principal for commission paid to, or withheld by, the agent.
- B. A manufacturer's representative is taxable on his gross commissions unless his relationship to his principal is that of employer and employee. This relationship of employer and employee exists if the principal pays Social Security and unemployment compensation taxes on behalf on the person claiming exemption and if, in the event of an accident in the course of employment, the manufacturer's representative might become entitled to Workmen's Compensation (see also §24-318).
- C. Undisclosed Principal. A person selling property, including real property, or rendering services, for an unknown or undisclosed principal, is subject to tax as a principal unless there is disclosed in the agent's return the identity of the principal and the amount of the sale made on his behalf.
- D. Conditions as to Recognition of Agency. A person will be regarded as acting as agent or broker in promoting or soliciting sales or rendering services for the account of a principal when it appears:
 - (1) The contract of agreement between such persons clearly establishes the relationship of principal and agent.
 - (2) The books and records of the agent or broker show the name of the actual owner of the property on whose behalf the sale is made.
 - (3) The books and records of the agent or broker show the amount of gross sales or service charges and the amount of commission due thereon.
- E. Collection by Agent. Money or property received by a taxpayer as agent, for transmittal to a third party, is not to be reported by such taxpayer as gross receipts, but any commission received by him for his services as agent must be included in gross receipts.
- F. This Section shall apply to advertising agencies, public relations, and any other service business which meets the agency criteria set forth herein.

5. Insurance Agents, Brokers and Underwriters.
 - A. General Agents. General agents for insurance companies are required to report as gross receipts the entire commissions received as compensation for their own efforts on policies sold by them directly, and the overriding commissions received by them upon business produced by brokers or subagents.
 - B. Brokers or Subagents. Brokers or subagents are required to report as gross receipts the commissions received as compensation for their services.
 - C. Offices Outside Borough. Where a general agent or an insurance broker maintains a branch office outside the Borough, the commissions attributable to such branch office may be excluded from gross receipts. Commissions will be deemed attributable to the Borough office, and hence subject to inclusion in the measure of the tax, if they result from the efforts of brokers, subagents or employees who work in, or from, or are attached to the Borough office.
 - D. Employee of Single Company. An employee of a single company is not subject to the Business Privilege Tax on his earnings from that company, but must file a return showing any additional gross commissions he received for services rendered on behalf of other companies. Factors indicating employee relationship are as follows:
 - (1) The agent devotes his entire time to a particular company except for writing an occasional policy with another company because his prime company does not carry the requested coverage or has rejected such coverage.
 - (2) The agent is considered to be an employee by his prime company. He receives pension benefits, makes Social Security payments through them, is subject to all fringe benefits, and is otherwise treated as an employee of the company.
 - (3) The agent does not employ solicitors, subagents, or others than clerical help, to whom he pays salaries, commissions or other compensation.
 - (4) The agent is housed by his prime company.
 - (5) The agent is not a general agent of his prime company.
6. Theaters and Motion Picture Houses. Persons operating theaters or motion picture houses and other places of amusement where admission is charged in the Borough, whether owner or lessee, are subject to the Business Privilege Tax on the gross receipts from house or film rental and from commissions received on vending machine sales, public telephone booths and sources of revenue other than

TAXATION, SPECIAL

sale of tickets of admission (which are exempt from tax by state law) or the sale of goods, wares and merchandise subject to Mercantile License Tax.

7. Persons Erecting Buildings or Otherwise Altering, Repairing or Improving Real Property.
 - A. General. A contractor or subcontractor, resident or nonresident, engaged in the business of erecting buildings, or otherwise altering, repairing or improving real property, or other major construction work, is required to report as gross receipts all receipts derived from the performance of such contract. The amount of receipts to be included in the tax base shall be the full contract price, that is the total amount received or receivable by way of a fixed or determinable amount under the terms of the contract. The contract price will be considered to include all charges made by a contractor, or subcontractor, for materials, labor, supervision, overhead costs and profit. In the case of the general contractor, prime contractor or subcontractor employing lower-tier subcontractors, no deduction may be made with respect to amounts paid to subcontractors and materialmen, unless it can be shown that the subcontractor has paid the Business Privilege Tax to the Borough on the same gross receipts stemming from the same contract.
 - B. Cost-Plus Contracts. A general Contractor performing contracts on the basis of a "cost-plus-a-fixed-fee" or "cost-plus-a-percentage" is required to report as gross receipts the full contract price as explained above, unless he has no connection whatsoever with the purchase of materials and/or the hiring of labor. In cases where the owner of the property buys the materials and hires all labor in his own name and pays the general contractor a fixed fee, or a percentage of the total cost to supervise and direct the construction project, the general contractor will be required to report only the gross amount of the fee or percentage received. Where the owner authorizes the general contractor to make for him such purchases of tangible personal property, or hire such labor or engage such subcontractors as are necessary for the performance of the contract and pledges his credit and is liable in the first instance to the materialmen, suppliers, laborers or subcontractors, as distinguished from merely guaranteeing payment of them or undertaking to reimburse the general contractor for the cost of such materials, services or subcontracts; and agrees to make payment directly to the materialmen, suppliers, laborers and subcontractors, such sales or services will be regarded as made directly to the owner, and the general contractor will not be required to include such items in his gross receipts.
 - C. Contractors or subcontractors permanently or temporarily doing business in the Borough shall register and file a tax return (general contractors are required to withhold final payment to subcontractors, temporarily doing business in the Borough, until proof of payment of the tax is furnished to them by such contractors).

- D. Contractors or Subcontractors. With an office in the Borough who are engaged in the performance of building, construction or engineering contracts at a point outside the territorial limits of the Borough may exclude from the measure of the tax the gross receipts derived therefrom, provided that a bona fide field office was maintained on the premises of the project during the performance of the contract wherein all control over such project was exercised to the extent that it constituted the doing of local business at the situs of the job. Receipts for services performed outside the Borough may also be excluded if it can be shown that no part of the service was performed in the Borough in accordance with §§24-319 and 24-321 of this Part.
8. Contractors Who Repair, Alter and Improve Tangible Personal Property. Persons engaged in business in the Borough as contractors who repair, alter and improve tangible personal property for the account of others are subject to tax under the provisions of this Part. When contractors perform labor or services on articles of tangible personal property furnished by the other party to the contract, such contractors are required to report only the amount due them for labor or services rendered.
9. Real Estate Brokers.
- A. Real estate brokers and agents are required to report as taxable receipts the commissions and fees received for the services rendered as agent in promoting the purchase and sale, the rental of the lease and or management of real property for others.
 - B. A real estate broker or agent may exclude from his tax base any commissions paid by him to another broker on account of a contract or purchase or sale initiated, executed or cleared in conjunction with the broker to whom the commission or part of the commission is paid.
 - C. If a real estate broker takes title to real property in his own or a straw name and sells the property, he is required to include the gross selling price of the property as taxable receipts, reduced by the purchase price of the real property. Closing, transfer and any other expenses or purchase cost may not be deducted.
 - D. Multilist dealers or brokers, resident or nonresident, are subject to the tax on commissions or sales on real property located in the Borough.
 - E. Listing fees received by dealers, brokers or agents in the Borough are taxable gross receipts, even if the sale is made by an office outside the Borough.
10. Buildings, Hotels, Apartment Houses, Boarding Houses, Nursing Homes, etc.
- A. Persons operating hotels, apartment houses, boarding houses, nursing homes, rooming houses and all other such establishments are taxable on re-

TAXATION, SPECIAL

ceipts from renting of rooms, furnishing of meals and any other services rendered which are not subject to tax under this ordinance.

- B. Any person carrying on the business of renting buildings, offices, space, stores, dwelling houses, etc., shall include gross rentals received in the tax base. No deductions may be made for depreciation, cost of maintenance, repairs, etc.
- (1) Persons who have obtained real property with no affirmative action on their parts, that is, fortuitously through inheritance, gift, reverter, or other legal processes, and who furnish only those elementary services and maintenance which are required by law, are not subject to the tax unless the property was received from a person who engaged in the business of renting the property and that business is continued by the recipient.
 - (2) Business corporations which hold rental property as a source of income in addition to their regular business, which may or may not be real estate, are subject to the tax whether or not services are rendered.
 - (3) Persons, corporations or partnerships holding rental property in the Borough, who employ rental agents or other such assistance in administering such property are doing business within the meaning of this ordinance and are subject to the tax whether or not they provide services.
 - (4) Agencies or entities which manage and/or operate cooperatives and/or condominiums must pay the tax based on all receipts received for maintenance, cleaning, and other service provided, including insurance. Receipts received from owner-tenants for taxes, interest and principal payments may be excluded from the taxable gross receipts.
 - (5) Agencies or entities which manage and/or operate cooperatives, condominiums, shopping centers or other real estate developments are taxable on receipts for such services regardless of where the property is located, subject to the provisions of §§24-319, 24-320 and 24-321 of this Part.
11. Receipts from Securities Transactions. For the purpose of determining the gross receipts from the sale of stocks, bonds, and/or other securities for a person engaged in a financial business, the cost thereof shall be deducted from the amount realized on the sale. Such cost shall consist of the purchase price of the property plus any brokerage paid on acquisition. The amount realized on the sale shall consist of the gross receipts therefrom without deducting stamp or transfer taxes or any brokerage paid.
12. Social and Recreational Clubs.

- A. Under State law the Borough may not tax "membership in or membership dues, fees, or assessments of charitable, religious, beneficial or nonprofit organizations including but not limited to sportsmen's, recreational, golf, and tennis clubs, girl and boy scout troops and councils." Accordingly, receipts from such sources are not subject to either the Business Privilege Tax or the Mercantile License Tax.
 - B. Many such organizations, however, sell food, beverages and recreational equipment to, or perform non-charitable services (such as catering services) for members as a regular part of their activities. Although such items may be exempt from federal income tax, they are not exempt from the Borough taxes. Accordingly, any such organization which does offer its members such goods or services must register under one of the other ordinance and pay the tax as appropriate. (This rule does not apply to "religious, charitable or educational" organizations which are entirely exempt from tax).
13. Public Official. Persons who act as agents or officials of the United States, Commonwealth of Pennsylvania or any political subdivision thereof are not subject to this ordinance with respect to their activities as such agents or officials. For this purpose, notaries public are considered agents of the Commonwealth.
14. Public Utilities. The Borough may not tax the gross receipts of a public utility subject to the Pennsylvania Public Utility Commission which are derived from supplying services at rates specified in tariffs authorized or approved by the PUC. Receipts derived from advertising and rentals or charges levied for services not subject to PUC regulation are subject to tax.
15. Government Contracts. Receipts from the performance of contracts entered into with the Borough of Rockledge, or the Commonwealth of Pennsylvania, of the United States of America or any subdivision of such governments are to be included in the measure of the tax.

(Ord. 452, 3/14/1988, §26)

§24-327. Fines and Penalties for Violations of Act.

Any person who fails, refuses or neglects to comply with the provisions of this ordinance may be punishable by a fine of not more than \$300, plus costs of prosecution, upon conviction before a district justice. Each day that this Part has not been complied with shall constitute a separate violation. Examples of violations which may result in such penalty are:

- A. Failing or refusing to obtain a Certificate of Registration.
- B. Making any false or untrue statement on a return.

TAXATION, SPECIAL

- C. Failing or refusing to appear before the Collector in person with his books, records or accounts for examination when required under the provisions of the Business Privilege Tax Ordinance to do so, or to permit inspection of the books, records or accounts of any business in the custody or control of the person, when the right to make such inspection by the Collector is requested.
- D. Failing or refusing to file a return required by the Business Privilege Tax provisions of this Part.
- E. Failing or refusing to pay Business Privilege Tax or Estimated Business Privilege Tax required by the Business Privilege Tax provisions of this Part.

(Ord. 452, 3/14/1988, §27)

§24-328. Limitations.

Nothing contained in this Section 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 Constitution and Laws of the Commonwealth of Pennsylvania.

(Ord. 452, 3/14/1988, §28)

§24-329. Construction.

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

(Ord. 452, 3/14/1988, §29)

§24-330. Conflict of Laws.

It is the intent of the Borough Council that any Section now in effect which imposes a special license fee on specific types or kinds of business shall be and remain in full force and effect.

(Ord. 452, 3/14/1988, §30)

§24-331. Collector's Bond.

The Collector is required to give bond to the Borough of Rockledge in an amount of \$25,000 with surety provided by any corporate surety authorized to do business in the Commonwealth of Pennsylvania. The Borough Council may provide for the payment of the premium on any such bond by the Borough.

(Ord. 452, 3/14/1988, §31)

PART 4

MERCANTILE LICENSE TAX

§24-401. Short Title.

This Section enacted hereunder shall be known as the "Mercantile License Tax."

(Ord. 452, 3/14/1988, §1)

§24-402. Definitions.

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

BOROUGH — the Borough of Rockledge.

COLLECTOR — the Collector of Business Privilege and Mercantile Taxes of the Borough of Rockledge or any other person from time to time designated by Borough Council.

GROSS RECEIPTS — include both cash and credit transactions as provided by law. The gross receipts upon which the tax is imposed is the value of all cash, credits or property received by a person which is attributable to the carrying on of business in the Borough, undiminished by any costs of doing business. A receipt generally will be considered attributable to the Borough if any part of the transaction or service giving rise to the receipt takes place within the Borough. Please refer to §§24-407, 24-408 and 24-409 regarding deductions, exclusions and exemptions from gross receipts.

LICENSE TAX YEAR — the 12 month period beginning the first day of January and ending the last day of December.

PERSON — an individual, a partnership, limited partnership, association, or a corporation or any other legal entity which engages in a taxable activity.

RETAIL DEALER or RETAIL VENDOR — any person who is a dealer in or a vendor of goods, wares and merchandise who is not a wholesale dealer or vendor, wholesale and retail dealer or vendor as hereinafter defined. Also included in this definition is any person conducting a restaurant or other place where food, drink or refreshments are sold in the Borough.

SECRETARY — the Secretary of the Borough of Rockledge.

SERVICE — any act or instance of helping or benefiting another for a consideration.

TAXATION, SPECIAL

TEMPORARY, SEASONAL OR ITINERANT BUSINESS — any business that is conducted at one location for less than 60 consecutive calendar days.

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

WHOLESALE AND RETAIL DEALER or WHOLESALE AND RETAIL VENDOR — any person who sells to dealers in or vendors of goods, wares and merchandise and to other persons.

The terms as hereinbefore defined in this Section shall not include the following: employees, agencies of the government of the United States or of the Commonwealth of Pennsylvania, of non-profit corporations or associations organized solely and exclusively for religious, educational or charitable purposes and not conducting any regular or established business competing commercially with any other person, subject to the tax herein imposed, or any person vending or disposing of articles of his own manufacture for shipment or delivery from the place of the manufacture thereof, or any farmer vending or disposing of his own produce or other transaction exempted by law, of those persons, entities, transactions and other matters exempted by the provisions of the Local Tax Enabling Act or other applicable law.

(Ord. 452, 3/14/1988, §2)

§24-403. Applicability of Ordinance.

1. The license and tax provisions of this Part apply to any persons who are wholesale or retail vendors or dealers in goods or who conduct restaurants or other places where food or beverages are sold except for those persons who engage in any business trade, occupation, profession or vocation in which there is offered any service or services to the general public or a limited number of the general public for a consideration, and who are thus subject to the Business Privilege Tax.
2. This Part applies not only to businesses in existence at the beginning of the license year, but also to businesses begun during the tax year or carried on in the Borough for any part of the tax year.

(Ord. 452, 3/14/1988, §3)

§24-404. Place of Business.

1. If the taxpayer has a place of business in the Borough and one or more places of business outside the Borough, only those receipts property allocable to the place of business in the Borough are taxable. For this purpose, a person may be considered to have a place of business outside the Borough if services are rendered at a fixed

location outside the Borough which are of such duration, size and complexity that the person would be considered doing business at such location.

2. Generally, receipts will be considered allocable to the place of business in the Borough if any significant aspect of the transaction occurs at or arises out of that place of business. For example, if a contract is made at the place of business in the Borough, the receipts arising from that contract may be allocable to the Borough even though all or part of the contract is to be performed outside the Borough. The fact that the receipts from any transaction may be subject to tax in a jurisdiction outside the Borough does not necessarily mean that those receipts are not allocable to the Borough and business within and without the Borough.

(Ord. 452, 3/14/1988, §4)

§24-405. Gross Receipts.

In general, the gross receipts upon which the tax is imposed is the value of all cash, credits or property received by a person which is attributable to the carrying on of business in the Borough, undiminished by any costs of doing business. A receipt generally will be considered attributable to the Borough if any part of the transaction or service giving rise to the receipt takes place within the Borough. The broad reach of this general rule is limited in certain situations by the ordinance and by state and federal law as more fully explained in §24-409.

(Ord. 452, 3/14/1988, §5)

§24-406. Cash or Accrual Basis.

A tax return may be filed on a cash basis or on an accrual basis, but the return must be prepared in accordance with the method of accounting regularly employed in keeping books of the taxpayer. A person who keeps his books on the cash basis will report his gross receipts on the basis of amounts actually received during the period used as the measure of the tax. A taxpayer who keeps his books on the actual basis will report the receipts from all sales made or services rendered during the period used as the measure of the tax, irrespective of the date when such moneys are collected from the customer. In either case, the taxpayer must file on a calendar year basis beginning January 1 and ending December 31, regardless of the taxpayer's fiscal year.

(Ord. 452, 3/14/1988, §6)

§24-407. Deductions from Gross Receipts.

1. Refunds, credits, or allowances given by a person to a customer on account of defects in services rendered or in goods, wares, and merchandise sold or returned, may be deducted from the amount of the "gross receipts" of the person.

TAXATION, SPECIAL

2. Adjustments allowed to customers may be deducted from "gross receipts" if they are deducted on the face of the invoice as a medium of adjusting the price or fee for the service and if they are not reimbursed to the person by his supplier or some other person.
3. Federal, State and local taxes are not included in "gross receipts" if they are collected from the customer and are separately stated on the evidence of charge or sale.

(Ord. 452, 3/14/1988, §7)

§24-408. Exclusions.

This Part excludes from the definition of gross receipts the receipts from the sale of goods, wares and merchandise, wholesale and retail from a place of business regularly maintained outside the Borough by the taxpayer to a place of business regularly maintained outside the Borough by the customer, provided that such sales are not made for the purpose of evading the tax. Sales or deliveries to a residence located outside the Borough do not qualify for this exclusion. Also, this exclusion does not apply to factors or commission merchants except with respect to sales of goods which they have taken title to and sold for their own account.

(Ord. 452, 3/14/1988, §8)

§24-409. Interstate Commerce Exemption.

Under certain circumstances receipts from sales in interstate or foreign commerce may be exempt from tax in whole or in part, even though they are allocable to a place of business in the Borough under §24-404 above. Receipts are not automatically exempt from tax merely because the sale involves interstate or foreign commerce. The controlling principles in determining whether any such receipts are subject to tax are that there be some nexus or connection between the business activity carried on in the Borough and the imposition of the tax and that there be a fair method of allocation of receipts to the business carried on in the Borough which will avoid an undue burden on interstate commerce. The burden is generally on the taxpayer to establish that the receipts are exempt from tax. Bearing these principles in mind, the following methods of allocation will be followed by the Borough:

- A. Receipts directly payable or paid to a place of business located within the Borough shall be considered allocable to the Borough and subject to tax.
- B. If the Collector determines, either upon his own initiative or upon application by the taxpayer, that the receipts covered by subsection (A) above do not properly reflect all receipts attributable to the activity carried on in the Borough, then to the extent possible (bearing in mind the accounting system

used by the taxpayer and any other information reasonably capable of being derived from the books and records of the taxpayer) a separate accounting shall be made with respect to each place of business in the Borough and all receipts attributable to the place of business shall be considered allocable to the Borough and subject to tax.

- C. If the Collector determines, either on his own initiative or upon application by the taxpayer, that the provisions of subsections (A) and (B) above do not properly reflect all receipts attributable to the activity carried on in the Borough, a different method of allocation may be used, with due regard to the extent of the receipts, property and wages of the taxpayer within the Borough, the nature of the business concerned, the number of jurisdictions in which the receipts may be taxed, and such other factors as may be considered relevant.
- D. All receipts from interstate commerce, whether taxable or nontaxable under the foregoing rules, must be included on the return filed by the taxpayer and a deduction for the nontaxable receipts shall be allowed thereon.

(Ord. 452, 3/14/1988, §9)

§24-410. Mercantile License Registration Required.

A person who engages in a business with gross receipts from wholesale or retail sales of merchandise or restaurant is required to register to obtain a mercantile license under this Part.

(Ord. 452, 3/14/1988, §10)

§24-411. Mercantile License.

A separate license must be obtained each year for each place of business in the Borough. The license must be obtained on or before the first day of each tax year (as defined above) if the business was begun prior to that tax year. If a business is begun or a new place of business established during the tax year, the license must be obtained prior to commencing business. The license shall be valid for the location for which it was issued and the applicant only and shall not be assignable.

(Ord. 452, 3/14/1988, §11)

§24-412. License Period.

The license is issued for a tax year (as defined above) of each year. A license obtained at any time during the year is valid only from the date of issue until the end of the year with respect to which it is issued.

TAXATION, SPECIAL

(Ord. 452, 3/14/1988, §12)

§24-413. License Fee.

Before the issuance of a license, the applicant shall make payment to the Collector of a registration fee for each place of business. The fee shall be \$15.

(Ord. 452, 3/14/1988, §13)

§24-414. Late Charges.

All license fees due under this Part and not paid by the first day of the tax year (as defined above) shall bear interest at the rate of 1% per month or fractional part of a month, from the day they are due and payable until paid. If any person shall neglect or refuse to obtain a license as herein required, an additional penalty of 10% of the license fee shall be added by the collector and collected.

(Ord. 452, 3/14/1988, §14)

§24-415. Forms and Where to File.

1. The application for license forms shall be available from the Collector appointed by Borough. Failure to obtain or receipt the application form shall not excuse any person from the obligation to file and obtain the license or the mercantile license tax return or payment of the applicable tax hereunder.
2. Each application for a license shall be signed by the applicant if a natural person, and in the case of an association or a partnership, by a member or partner thereof, and in the case of a corporation, by an officer thereof.
3. All applications for license shall be filed with the Collector.
4. In the case of loss, defacement, or destruction of any license, the person to whom the license was issued shall apply to the Collector for a new license for which a fee of \$1 shall be charged.

(Ord. 452, 3/14/1988, §15)

§24-416. Tax.

Every person who is a wholesale vendor or dealer in goods, wares and merchandise of every kind, in the Borough of Rockledge shall pay an annual Mercantile License Tax for the tax year at the rate of 1 mill on gross receipts for wholesale business, and every per-

son who is a retail vendor or dealer in goods, wares and merchandise of every kind, in the Borough of Rockledge shall pay an annual Mercantile License Tax for the tax year at the rate of 1 1/2 mills on gross receipts for retail business, provided, however, that in no event shall the annual Mercantile License Tax herein imposed be less than \$15.

(Ord. 452, 3/14/1988, §16)

§24-417. Requirement of Filing Return.

A return must be filed and an estimated tax must be paid for each tax year at the time set forth in §24-418 below. The estimated tax is computed on the estimated gross receipts for the tax year, which is determined as described in Section §24-419 below. At the end of each tax year the actual gross receipts for the year must be determined and an appropriate adjustment made in the tax due. This adjustment will be shown on the final return for the tax year. The final return for the prior tax year will be combined with, and thus filed at the sale time as, the estimated return for the current year and a single payment made in an amount equal to the estimated tax for the current year, increased or decreased by the adjustment for actual gross receipts for the prior year.

(Ord. 452, 3/14/1988, §17)

§24-418. Time of Filing.

Every person subject to this Part shall file a return as follows:

- A. If the person has commenced business, either for a full year or less than a full year, prior to January 1 of the tax year, the return shall be filed on or before May 1 following the tax year.
- B. If the person commences business after the start of any tax year (as defined above), the return shall be filed within 40 days from the date of commencing business.
- C. If the person is engaged in a business which is temporary, seasonal or itinerant in its nature, the return shall be filed within 7 days of the completion of such business.
- D. If the person discontinues, terminates or otherwise ceases business activity at the registered location, the return shall be filed within 30 days of such cessation of business activity.

(Ord. 452, 3/14/1988, §18)

TAXATION, SPECIAL

§24-419. Estimated Gross Receipts.

The estimated gross receipts for each tax year shall be determined as follows:

- A. If the taxpayer has been engaged in business in the Borough for a full year prior to January 1 of a tax year, the actual gross receipts for that prior year shall be the estimated gross receipts for the tax year.
- B. If the taxpayer has been engaged in business in the Borough prior to January 1 of the tax year but for less than 1 full year, the estimated gross receipts for any tax year shall be the average monthly gross receipts for the prior year multiplied by 12.
- C. If the taxpayer commences business in the Borough during the tax year, the estimated gross receipts shall be determined by multiplying the gross receipts for the first month of business by the number of months remaining in the tax year.
- D. In the case of a temporary, seasonal, or itinerant business for which a return is filed as provided in paragraph 24-418(C) above, no estimate is computed. Instead, the tax is imposed on the actual gross receipts during the period covered by the return.
- E. Any person who engages in business with gross receipts from wholesale or retail sales of merchandise or from a restaurant and from service, who registers under the Mercantile Tax requirements, and the Business Privilege Tax requirements, shall combine and report gross receipts in a single return but at the rates applicable, respectively, to gross receipts under the Business Privilege Tax or Mercantile License Taxes.

(Ord. 452, 3/14/1988, §19)

§24-420. Payment of Tax; Credits.

1. At the time of filing the tax return on May 1 of any tax year, except as hereinbefore provided, the person shall pay in a single payment an amount equal to the estimated tax for the current year and any balance due for actual gross receipts for the prior year at the rates applicable, respectively, under the Business Privilege Tax or Mercantile License Taxes.
2. Any person with a decrease in actual gross receipts from that estimated on the prior year's return shall be entitled to a credit on the estimated tax for the current year in an amount equal to the overpayment of tax for the prior year.
3. To the extent that a person as defined in this Part is located in the Borough and has paid Mercantile License Taxes to another taxing jurisdiction for a place of business outside the Borough, under those conditions referred to in §24-404, for

any taxable year commencing with 1987, in good faith and not for purposes of evading this taxing Part, for which said person has also paid taxes to the Borough of Rockledge, the Borough will give a tax credit to said person up to the dollar amount of taxes represented, based upon the taxing rate in existence in Rockledge for the tax year in which paid. Sufficient proof and documentation should be submitted with the filing of the return to enable the Collector to make a determination as to whether the request for credit is proper on a case by case basis.

(Ord. 452, 3/14/1988, §20)

§24-421. Duties of the Collector.

1. It shall be the duty of the Collector to collect and receive all fees, taxes, interest, fines and penalties imposed by this ordinance and to maintain a record of all payments received, the date thereof and to issue receipts therefore.
2. The Collector shall pay all fees, taxes, interest, fines and penalties collected, received or recovered under the provisions of this Part into the Treasury of the Borough for the use and benefit of the Borough.
3. To the extent that a person as defined in this Part is located in the Borough and has paid Business Privilege Taxes to another taxing jurisdiction for a place of business outside the Borough under those conditions referred to in §24-404, for any taxable year commencing with 1987, in good faith and not for purposes of evading this taxing Part, for which said person has also paid taxes to the Borough of Rockledge, the Borough will give a tax credit to said person up to the dollar amount of taxes represented, based upon the taxing rate in existence in Rockledge for the tax year in which paid. Sufficient proof and documentation should be submitted with the filing of the return to enable the Collector to make a determination as to whether the request for credit is proper on a case by case basis.

(Ord. 452, 3/14/1988, §21)

§24-422. Books and Records.

The Collector may request such books and accounting records as will enable him to determine the accuracy of the taxpayer's return. The taxpayer claiming exemptions or exclusions for any portion of his gross receipts must maintain complete records of such items; otherwise, such claims will be disallowed.

(Ord. 452, 3/14/1988, §22)

§24-423. Inspection and Examination.

The Collector is authorized to examine not only the books, papers and records of any taxpayer or supposed taxpayer in order to verify the accuracy of any return made, or if no return was made, to ascertain whether a tax should be imposed and, if so, the amount of such tax. He is further authorized to examine any person connected with any business concerning any gross receipts of the business which were or should have been returned for taxation, and for this purpose, may compel the production of books, papers, records and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of such business or gross receipts.

(Ord. 452, 3/14/1988, §23)

§24-424. Suits for Recovery of Unpaid Taxes.

Suits for recovery of taxes may be brought within the applicable statute of limitations in Pennsylvania commencing from the date of assessment or date due, whichever is later, by the Collector or Borough Solicitor, as other debts due the Borough are by law recoverable.

(Ord. 452, 3/14/1988, §24)

§24-425. Penalty and Interest for Non-Payment.

If for any reason the tax is not paid when due, interest at the rate of 1% of the amount of unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added to the tax. A penalty in the amount of 10% of the tax due shall be added if the taxpayer has neglected or refused to file a return or make any payment.

(Ord. 452, 3/14/1988, §25)

§24-426. Fines and Penalties for Violations of Act.

Any person who fails, refuses or neglects to comply with the provisions of this ordinance may be punishable by a fine of not more than \$300, plus costs of prosecution, upon conviction before a district justice. Each day that this Part has not been complied with shall constitute a separate violation. Examples of violations which may result in such penalty are:

- A. Failing or refusing to obtain a Certificate of Registration.
- B. Making any false or untrue statement on a return.
- C. Failing or refusing to appear before the Collector in person with his books, records or accounts for examination when required under the provisions of

the Business Privilege Tax Ordinance to do so, or to permit inspection of the books, records or accounts of any business in the custody or control of the person, when the right to make such inspection by the Collector is requested.

- D. Failing or refusing to file a return required by the Business Privilege Tax provisions of this ordinance.
- E. Failing or refusing to pay Business Privilege Tax or Estimated Business Privilege Tax required by the Business Privilege Tax provisions of this Part.

(Ord. 452, 3/14/1988, §26)

§24-427. Limitations.

Nothing contained in this Section 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 Constitution and laws of the Commonwealth of Pennsylvania.

(Ord. 452, 3/14/1988, §27)

§24-428. Construction.

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

(Ord. 452, 3/14/1988, §28)

§24-429. Conflict of Laws.

It is the intent of the Borough Council that any section now in effect which imposes a special license fee on specific types or kinds of business shall be and remain in full force and effect.

(Ord. 452, 3/14/1988, §29)

TAXATION, SPECIAL

§24-430. Collector's Bond.

The Collector is required to give bond to the Borough of Rockledge in an amount of \$25,000 with surety provided by any corporate surety authorized to do business in the Commonwealth of Pennsylvania. The Borough Council may provide for the payment of the premium on any such bond by the Borough.

(Ord. 452, 3/14/1988, §30)

PART 5

LOCAL TAXPAYERS BILL OF RIGHTS

§24-501. Short Title.

This Part shall be known and may be cited as the "Local Taxpayers Bill of Rights Act."

(Ord. 590, 3/14/2005, §1)

§24-502. Definitions.

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

ASSESSMENT — the determination by a Township of the amount of underpayment by a taxpayer.

BOARD — a board of local tax appeals established under 53 Pa.C.S.A. §8430 (relating to administrative appeals).

ELIGIBLE TAX — any of the following, including interest and penalty provided by law, when levied by a political subdivision:

- A. Any tax authorized or permitted under the Act of December 31, 1965 (P.L. 1257, No. 511, known as the "Local Tax Enabling Act."
- B. Any Per Capita Tax levied under any act.
- C. Any Occupation, Occupation Assessment or Occupation Privilege Tax levied under any act.
- D. Any tax on income levied under any act.
- E. Any tax measured by gross receipts levied under any act.
- F. Any tax on a privilege levied under any act.
- G. Any tax on amusements or admissions levied under any act.
- H. Any tax on earned income and net profits.

GOVERNING BODY — a city council, borough council, incorporated town council, board of township commissioners, board of township supervisors, a governing council of a home rule municipality or option plan municipality, a governing coun-

TAXATION, SPECIAL

cil of any similar general purpose unit of government which may hereafter be created by statute or a board of school directors of a school district.

OVERPAYMENT — any payment of tax which is determined in the manner provided by law not to be legally due.

TAXPAYER — an individual, partnership, association, corporation, limited liability company, estate, trust, trustee, fiduciary or any other entity subject to or claiming exemption from any eligible tax or under a duty to perform an act for itself or for another under or pursuant to the authority of an act providing for an eligible tax.

UNDERPAYMENT — the amount or portion of any tax determined to be legally due in the manner provided by law for which payment or remittance has not been made.

VOLUNTARY PAYMENT — a payment of an eligible tax made pursuant to the free will of the taxpayer. The term does not include a payment made as a result of distraint or levy or pursuant to a legal proceeding in which the Borough is seeking to collect its delinquent taxes or file a claim therefor.

(Ord. 590, 3/14/2005, §1)

§24-503. Disclosure Statement.

1. Contents. The Borough shall prepare a statement which sets forth the following in simple and nontechnical terms:
 - A. The rights of a taxpayer and the obligation of the Borough during an audit or an administrative review of the taxpayer's books or records.
 - B. The administration and judicial procedures by which a taxpayer may appeal or seek review of any adverse decision of the Borough.
 - C. The procedure for filing and processing refund claim and taxpayer complaints.
 - D. The enforcement procedures.
2. Distribution. The Borough shall notify any taxpayer contacted regarding the assessment, audit, determination, review or collection of an eligible tax of the availability of the statement under subsection (1). The Borough shall make copies of the statement available to taxpayers upon request at no charge to the taxpayer, including mailing costs. The notification shall be stated as follows:

"You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes by calling the Borough of Rockledge at (215) 379-8572 during the hours of 9 a.m.–3 p.m.

(Ord. 590, 3/14/2005, §1)

§24-504. Requirements for Requests.

1. Minimum Time Period for Taxpayer Response.
 - A. The taxpayer shall have at least 30 calendar days from the mailing date to respond to request for information by a Borough. The Borough shall grant additional reasonable extensions upon application for good cause.
 - B. The Borough shall notify the taxpayer of the procedures to obtain an extension in its initial request.
 - C. The Borough shall take no lawful action against a taxpayer for the tax year in question until the expiration of the applicable response period, including extensions.
2. Requests for Prior Year Returns.
 - A. Except as provided in subsection (B), an initial inquiry by the Borough regarding a taxpayer's compliance with any eligible tax may include taxes required to be paid or tax returns required to be filed no more than 3 years prior to the mailing date of the notice.
 - B. The Borough may make a subsequent request for a tax return or supporting information if, after the initial request, the Borough determines that the taxpayer failed to file a tax return, under-reported income or failed to pay a tax for one or more of the tax period covered by the initial request.

This subsection shall not apply if the Borough has sufficient information to indicate that the taxpayer failed to file a required return or pay an eligible tax which was due more than 3 years prior to the date of the notice.
3. Use of Federal Tax Information. The Borough may require a taxpayer to provide copies of the taxpayer's Federal individual income tax return if the Borough can demonstrate that the Federal tax information is reasonably necessary for the enforcement or collection of an eligible tax and the information is not available from other available sources or the Department of Revenue.

(Ord. 590, 3/14/2005, §1)

§24-505. Refunds of Overpayment.

1. General Rule. A taxpayer who has paid an eligible tax to the Borough may file a written request with the Borough for refund or credit of the eligible tax. A request for refund shall be made within 3 years of the due date for filing the report as extended or 1 year after actual payment of the eligible tax, whichever is later. If no report is required the request shall be made within 3 years after the due date for payment of the eligible tax or within 1 year after actual payment of the eligible tax, whichever is later.
 - A. For purposes of this Section, a tax return filed by the taxpayer with the Borough showing an overpayment of tax shall be deemed to be a written request for a cash refund unless otherwise indicated on the tax return.
 - B. A request for refund under this Section shall not be considered a petition under §53 Pa.C.S.A. §8430 (relating to petitions).
2. Notice of Underpayment. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for refund shall be filed with the Borough within 1 year of the date of the payment.

(Ord. 590, 3/14/2005, §1)

§24-506. Interest on Overpayment.

1. General Rule. All overpayments of tax due the Borough, including taxes on real property, shall bear simple interest from the date of overpayment until the date of resolution.
2. Interest Rate. Interest on overpayments shall be allowed and paid at the same rate as the Commonwealth is required to pay pursuant to §806.1 of the Act of April 9, 1929 (P.L. 343, No. 176) known as the Fiscal Code.
3. Exceptions.
 - A. No interest shall be allowed if an overpayment is refunded or applied against any other tax, interest or penalty due the Borough within 75 days after the last date prescribed for filing the report of the tax liability or within 75 days after the date the return or report of the liability due is filed, whichever is later.
 - B. Overpayments of interest of penalty shall not bear any interest.
4. Acceptance of Refund Check. The taxpayer's acceptance of the Borough check shall not prejudice any right of the taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check by the Borough shall be deemed to be acceptance of the check by the taxpayer for purposes of this Section.

5. Definitions. As used in this Section, the following words and phrases shall have the meaning given to them in this Section:

DATE OF OVERPAYMENT — the later of the date paid or the date tax is deemed to have been overpaid as follows:

- A. Any tax actually deducted and withheld at the source shall be deemed to have been overpaid on the last day for filing the report for the tax period, determined without regard to any extension of time for filing.
- B. Any amount overpaid as estimated tax for the tax period shall be deemed to have been overpaid on the last day for filing the final report for the tax period, determined without regard to any extension of time for filing.
- C. An overpayment made before the last day prescribed for payment shall be deemed to have been paid on the last day.
- D. Any amount claimed to be overpaid with respect to which a lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid 60 days following the date of initiation of the review or procedure.
- E. Any amount shown not to be due on an amended income or earned income and net profits tax return shall be deemed to have been overpaid 60 days following the date of filing of the amended income tax return.

DATE OF RESOLUTION — the date the overpayment is refunded or credited as follows:

- A. For a cash refund, a date preceding the date of the Borough's refund check by not more than 30 days.
- B. For a credit for an overpayment.
 - (1) The date of the Borough's notice to the taxpayer of the determination of the credit; or
 - (2) The due date for payment of the tax against which the credit is applied, whichever first occurs. For a cash refund of a previously determined credit, interest shall be paid on the amount of the credit from a date 90 days after the filing of a request to convert the credit to a cash refund to a date preceding the date of the refund check by not more than 30 days whether or not the refund check is accepted by the taxpayer after tender.

(Ord. 590, 3/14/2005, §1)

§24-507. Notice of Basis of Underpayment.

The Borough shall notify the taxpayer, in writing, of the basis for any underpayment that the Borough has determined to exist. The notification shall include:

- A. The tax period or periods for which the underpayment is asserted.
- B. The amount of the underpayment detailed by tax period.
- C. The legal basis upon which the Borough has relied to determine that an underpayment exists.
- D. An itemization of the revisions made by the Borough to a return or report filed by the taxpayer that results in the determination that an underpayment exists.

(Ord. 590, 3/14/2005, §1)

§24-508. Abatement of Certain Interest and Penalty.

- 1. Errors and Delays. In the case of any underpayment, the Borough may abate all or any part of interest for any period for the following:
 - A. Any underpayment or tax finally determined to be due attributable in whole or in part to any error or delay by the Borough in the performance of a ministerial act. For purposes of this subsection, an error or delay shall be taken into account only if no significant aspect of the error or delay can be attributed to the taxpayer and after the Borough has contacted the taxpayer, in writing, with respect to the underpayment of tax finally determined to be due or payable.
 - B. Any payment of a tax to the extent that any error in delay in the payment is attributable to an officer, employee or agent of the Borough being erroneous or dilatory in performance of a ministerial act. The Borough shall determine what constitutes timely performance of ministerial acts performed under this subsection.
- 2. Abatement Due to Erroneous Written Advice by the Borough.
 - A. The Borough shall abate any portion of any penalty or excess interest attributable to erroneous advice furnished to the taxpayer in writing by an officer, employee or agent of the Borough acting in the officer's, employee's or agent's official capacity if:
 - (1) The written advice was reasonably relied upon by the taxpayer and was in response to specific written request of the taxpayer; and

(2) The portion of the penalty or addition to tax or excess interest did not result from a failure by the taxpayer to provide adequate or accurate information.

B. This subsection shall not be construed to require the Borough to provide written advice to taxpayers.

(Ord. 590, 3/14/2005, §1)

§24-509. Application of Payments.

Unless otherwise specified by the taxpayer, all voluntary payments of an eligible tax shall be prioritized by the Borough as follows:

- A. Tax.
- B. Interest.
- C. Penalty.
- D. Any other fees or charges.

(Ord. 590, 3/14/2005, §1)

§24-510. Administrative Appeals.

A political subdivision levying an eligible tax shall establish an administrative process to receive and make determinations on petitions from taxpayers relating to the assessment, determination or refund of an eligible tax. The administrative process shall consist of any one of the following:

- A. Review and decision or hearing and decision by the Borough Tax appeals Board appointed by the Borough Council. The Board shall consist of at least three but not more than seven members. Qualifications for service on the Board and compensation, if any, of the members shall be determined by the Borough. The Borough may enter into agreements with other political subdivisions to establish a joint local tax appeal board.
- B. Review and decision by the Borough Council in executive session.
- C. A hearing and decision by a hearing officer appointed by the Borough Council. The Borough Council shall determine the qualifications and compensation, if any, of the hearing officer.

TAXATION, SPECIAL

- D. An administrative review of appeal process existing on the effective date of this Part that is substantially similar to the procedures in subsection (A), (B) or (C).

(Ord. 590, 3/14/2005, §1)

§24-411. Petitions.

1. Filing. A petition is timely filed if the letter transmitting the petition is post-marked by the United States Postal Service on or before the final day on which the petition is required to be filed. Deadlines for filing petitions are as follows:
 - A. Refund petitions shall be filed within 3 years after the due date for filing the report as extended or 1 year after actual payment of an eligible tax, whichever is later. If no report is required, the petition shall be filed within 3 years after the due date for payment of an eligible tax or within 1 year after actual payment, whichever is later.
 - B. Petitions for reassessment of an eligible tax shall be filed within 90 days of the date of the assessment notice.
2. Contents. The Borough Council shall adopt regulations specifying the form and content of petitions, including the process and deadlines.

(Ord. 590, 3/14/2005, §1)

§24-512. Practice and Procedure.

Practice and procedure under this Section shall not be governed by 2 Pa.C.S. Chs. 5 Subch. B (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action). The Borough Council shall adopt regulations governing practice and procedure under this Section.

(Ord. 590, 3/14/2005, §1)

§24-513. Decisions.

Decisions on petitions submitted under this Section shall be issued within 60 days of the date a complete and accurate petition is received. Failure to act within 60 days shall result in the petition being deemed approved.

(Ord. 590, 3/14/2005, §1)

§24-514. Appeals.

Any person aggrieved by a decision under this Part who has a direct interest in the decision shall have the right to appeal to the court vested with the jurisdiction of local tax appeals by or pursuant to 42 Pa.C.S. (relating to judiciary and judicial procedure).

(Ord. 590, 3/14/2005, §1)

§24-515. Equitable and Legal Principles to Apply.

Decisions under this Part may be made according to principles of law and equity.

(Ord. 590, 3/14/2005, §1)

§24-516. Installment Agreements.

1. Authorization. The Borough may enter into written agreements with any taxpayer under which the taxpayer is allowed to satisfy liability for any eligible tax in installment payments if the Borough determines that the agreement will facilitate collection.
2. Extent to Which Agreements Remain in Effect.
 - A. Except as otherwise provided in this Section, any agreement entered into by the Borough under subsection (1) shall remain in effect for the term of the agreement.
 - B. The Borough may terminate any prior agreement entered into under subsection (1) if:
 - (1) Information which the taxpayer provided to the Borough prior to the date of the agreement was inaccurate or incomplete; or
 - (2) The Borough believes that collection of any eligible tax under the agreement is in jeopardy.
 - C. If the Borough finds that the financial condition of the taxpayer has significantly changed, the Township may alter, modify or terminate the agreement, but only if:
 - (1) Notice of the Borough's finding is provided to the taxpayer no later than 30 days prior to the date of such action; and
 - (2) The notice contains the reasons why the borough believes a significant change has occurred.

TAXATION, SPECIAL

- D. The Borough may alter, modify or terminate an agreement entered into by the Borough under subsection (1) if the taxpayer fails to do any of the following:
 - (1) Pay any installment at the time the installment is due under such agreement.
 - (2) Pay any other tax liability at the time liability is due.
 - (3) Provide a financial condition update as requested by the Borough.
3. Prepayment Permitted. Nothing in this Section shall prevent a taxpayer from prepaying in whole or in part any eligible tax under any agreement with the Borough.

(Ord. 590, 3/14/2005, §1)

§24-517. Confidentiality of Tax Information.

1. Any information gained by the Borough as a result of any audit, return, report, investigation, hearing or verification shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for the Borough to:
 - A. Divulge or make known in any manner any confidential information gained in any return, investigation, hearing or verification to any person.
 - B. Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person.
 - C. Print public or make known in any manner any confidential tax information.
2. An offense under this Section is a misdemeanor of the third degree and, upon conviction thereof, a fine of not more than \$2,500 and costs, or a term of imprisonment for not more than 1 year, or both, may be imposed. If the offender is an officer or employee of the township, the officer or employee shall be dismissed from office or discharged from employment.

(Ord. 590, 3/14/2005, §1)

§24-518. Taxes on Real Property.

Except as provided in 53 Pa.C.S.A., §8426 (relating to interest on overpayment) this Section shall not apply to any tax on real property.

(Ord. 590, 3/14/2005, §1)

PART 6

REAL PROPERTY TAX AND SEWER RENT

§24-601. Discount Period; Amount.

All taxpayers subject to the payment of real property taxes and sewer rental charges by the Borough of Rockledge, Montgomery County, Pennsylvania, shall be entitled to a discount of 2% from the amount of such tax upon making payment of the whole amount thereof within 2 months after the date of the tax notice. No discount will be permitted after the expiration of the 2 month discount period.

(Ord. 382. 11/8/76, §1)

§24-601. Penalty Period; Amount.

All taxpayers subject to the payment of real estate taxes assessed by the Borough of Rockledge, Montgomery County, Pennsylvania, who shall fail to make payment of the aforementioned taxes charged against them for 4 months after the date of the tax notice, shall be charged a penalty of 10% of the amount of such tax.

(Ord. 382. 11/8/76, §2)

§24-603. Collection of Tax; Penalty.

The Tax Collector of the Borough of Rockledge is hereby authorized to charge a penalty of 10% against those taxpayers who shall fail to make payment of any of the aforementioned taxes charged against them for 4 months after the date of the tax notice and such penalty shall be added to the taxes by the Tax Collector and be collected by him.

(Ord. 382. 11/8/76, §3)

§24-604. Exemptions.

Be it enacted and ordained by the Borough Council of the Borough of Rockledge that the Rockledge Volunteer Fire Company No. 1 of the said Borough shall be exempt from any taxation that the Borough authorities may assess upon any of the real property of the said fire company situated within the said Borough.

(Ord. 382. 2/27/94, §4)

PART 7

EMERGENCY AND MUNICIPAL SERVICES TAX

§24-701. Title.

There is hereby established a tax in the Borough of Rockledge known as the “Emergency and Municipal Services Tax.”

(Ord. 592, 9/12/2005, §1)

§24-702. Applicability.

Such tax is imposed upon each and every individual who is employed within the Borough of Rockledge. In the event that an individual is employed in more than one municipality that collects such tax, the tax shall be imposed in accordance with the order of priority set forth in the Local Tax Enabling Act, 53 P.S. §6902(9).

(Ord. 592, 9/12/2005, §2)

§24-703. Tax Rate.

The rate of the tax is hereby established at \$52 per annum.

(Ord. 592, 9/12/2005, §3)

§24-704. Exemptions.

Persons who earn less than \$12,000 per annum are hereby exempted from the payment of all or any portion of the tax hereby adopted.

(Ord. 592, 9/12/2005, §4)

§24-705. Purpose.

The Emergency and Municipal Services Tax is in addition to, and not as a replacement for, all taxes previously enacted by the Borough of Rockledge. Such tax shall be used for road construction and/or maintenance; police, fire and/or emergency services; and/or reduction of property taxes.

(Ord. 592, 9/12/2005, §5)

§24-706. Collection Through Employers.

Each employer within the Borough of Rockledge is hereby charged with the duty of collecting the said tax of \$52 per year, in accordance with the terms of this Part, from each employee who engaged in an occupation, as herein defined, for the benefit of said employer or in the service of said employer within the Borough of Rockledge during the fiscal year. Such employer shall make a return and payment of said tax to the Borough's collector of local taxes, and each such employer is hereby authorized to deduct said tax from each such employee, whether or not such employee is paid by salary, wages, commission, and whether or not part or all of such services are performed within the Borough of Rockledge.

(Ord. 592, 9/12/2005, §6)