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## Chapter 80 — Earned Income Tax (2012 and Subsequent Years)

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### Article I — Title and Definitions

§ 80-101	Short Title.....	80-5
§ 80-102	Definitions.....	80-5
	(a) In General.....	80-5
	(b) Usage.....	80-5
§ 80-103	Article XIII Tax Officer.....	80-5
§ 80-104	Business.....	80-5
§ 80-105	Business Entity.....	80-5
§ 80-106	Certified Public Accountant or Public Accountant.....	80-5
§ 80-107	Claim.....	80-6
§ 80-108	Corporation.....	80-6
§ 80-109	Current Year.....	80-6
§ 80-110	Department.....	80-6
§ 80-111	Domicile.....	80-6
§ 80-112	Earned Income.....	80-6
§ 80-113	Earned Income and Net Profits Tax.....	80-7
§ 80-114	Employer.....	80-7
§ 80-115	Income Tax.....	80-7
§ 80-116	Joint Tax Collection Committee.....	80-7
§ 80-117	LTEA.....	80-7
§ 80-118	Net Profits.....	80-7
§ 80-119	Nonresident.....	80-8
§ 80-120	Nonresident Tax.....	80-8
§ 80-121	Official Register.....	80-8
§ 80-122	Person.....	80-8
§ 80-123	Preceding Year.....	80-8
§ 80-124	Private Agency.....	80-8
§ 80-125	Resident.....	80-9
§ 80-126	Resident Tax.....	80-9
§ 80-127	Resident Tax Officer.....	80-9
§ 80-128	Succeeding Year.....	80-9
§ 80-129	Tax Bureau.....	80-9
§ 80-130	Tax Collection Committee.....	80-9
§ 80-131	Tax Collection District.....	80-9
§ 80-132	Tax Officer.....	80-9
§ 80-133	Tax Records.....	80-10
§ 80-134	Tax Register.....	80-10
§ 80-135	Taxable Income.....	80-10
§ 80-136	Taxpayer.....	80-10
§ 80-137	Withholding Tax.....	80-10

## Article I — Title and Definitions

### § 80-101 Short Title.

This Chapter shall be known, and may be cited, as the “Alburtis Earned Income Tax Ordinance.”

### § 80-102 Definitions.

(a) **In General.** For purposes of this Chapter, the terms defined in the remaining Sections of this Article I shall have the meanings indicated, whether with or without initial capital letters, unless the context in which they are used clearly indicates a different meaning.

(b) **Usage.** Personal pronouns shall include the singular as well as the plural number and the male, neuter and female genders.

### § 80-103 Article XIII Tax Officer.

The term “Article XIII tax officer” shall mean the tax officer authorized by the Borough to collect income taxes levied for periods prior to January 1, 2012.

### § 80-104 Business.

The term “business” shall mean an enterprise, activity, profession, or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association, or any other entity.

### § 80-105 Business Entity.

The term “business entity” shall mean a sole proprietorship, corporation, joint-stock association or company, partnership, limited partnership, limited liability company, association, business trust, syndicate or other commercial or professional activity organized under the laws of this Commonwealth or any other jurisdiction.

### § 80-106 Certified Public Accountant or Public Accountant.

The terms “certified public accountant” and “public accountant” shall mean a certified public accountant, public accountant or firm, as provided for in the Act of May 26, 1947 (P.L. 318, No. 140), as amended and re-enacted, 63 PA. STAT. ANN. § 9.1 *et seq.*, known as the CPA Law.

**§ 80-107 Claim.**

The term “claim” shall mean a written demand for payment made by a tax officer or tax collection district for income taxes collected by another tax officer or tax collection district.

**§ 80-108 Corporation.**

The term “corporation” shall mean a corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency. The term shall include an entity which is classified as a corporation for Federal income tax purposes.

**§ 80-109 Current Year.**

The term “current year” shall mean the calendar year for which the tax is levied.

**§ 80-110 Department.**

The term “Department” shall mean the Department of Community and Economic Development of the Commonwealth of Pennsylvania.

**§ 80-111 Domicile.**

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

**§ 80-112 Earned Income.**

The term “earned income” shall mean the compensation as required to be reported to or as determined by the Department of Revenue under Section 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, 72 PA. STAT. ANN. § 7303, and rules and regulations promulgated under that section (including, but not limited to, 61 Pa. Code ch. 101 through 125). Employee business expenses as reported to or determined by the Department of Revenue under Article III of the Tax Reform Code of 1971, 72 PA. STAT. ANN. § 7301 *et seq.*, shall constitute allowable deductions in determining earned income. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

**§ 80-113 Earned Income and Net Profits Tax.**

The term “earned income and net profits tax” shall mean the tax levied by the Borough on earned income and net profits. (*See* this Chapter and Chapter 82.)

**§ 80-114 Employer.**

The term “employer” shall mean a person, business entity or other entity, employing one or more persons for a salary, wage, commission or other compensation. The term includes the Commonwealth, a political subdivision, and an instrumentality or public authority of either. For purposes of penalties under this Chapter, the term includes a corporate officer.

**§ 80-115 Income Tax.**

The term “income tax” shall mean, except as set forth in section 511(b) of the LTEA, 53 PA. STAT. ANN. § 6924.511(b), an earned income and net profits tax, personal income tax, or other tax that is assessed on the income of a taxpayer levied by the Borough under the authority of the LTEA or any other act.

**§ 80-116 Joint Tax Collection Committee.**

The term “joint tax collection committee” shall mean an entity formed by two or more tax collection committees for the purpose of income tax collection in more than one tax collection district.

**§ 80-117 LTEA.**

The term “LTEA” shall mean the Pennsylvania Local Tax Enabling Act, P.L. 1257, 1965, as amended, 53 PA. STAT. ANN. § 6924.101 *et seq.*

**§ 80-118 Net Profits.**

The term “net profits” shall mean the net income from the operation of a business, other than a corporation, as required to be reported to or as determined by the Department of Revenue under section 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, 72 PA. STAT. ANN. § 7303, and rules and regulations promulgated under that section (including, but not limited to, 61 Pa. Code ch. 101 through 125). The term does not include income under any of the following subsections:

(a) Income which:

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

(b) Income which represents:

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

**§ 80-119 Nonresident.**

The term “nonresident” shall mean a person or business domiciled outside the Borough levying the tax.

**§ 80-120 Nonresident Tax.**

The term “nonresident tax” shall mean an income tax levied by the Borough on nonresidents.

**§ 80-121 Official Register.**

The term “official register” shall mean the part of the tax register that includes withholding tax rates as provided in section 511(a)(3) of the LTEA, 53 PA. STAT. ANN. § 6924.511(a)(3).

**§ 80-122 Person.**

The term “person” shall mean a natural person.

**§ 80-123 Preceding Year.**

The term “preceding year” shall mean the calendar year before the current year.

**§ 80-124 Private Agency.**

The term “private agency” shall mean a business entity or person appointed as a tax officer by a tax collection committee.

**§ 80-125 Resident.**

The term “resident” shall mean a person or business domiciled in the Borough levying the tax.

**§ 80-126 Resident Tax.**

The term “resident tax” shall mean an income tax levied by the Borough.

**§ 80-127 Resident Tax Officer.**

The term “resident tax officer” shall mean the tax officer administering and collecting income taxes for the tax collection district in which a taxpayer is domiciled.

**§ 80-128 Succeeding Year.**

The term “succeeding year” shall mean the calendar year following the current year.

**§ 80-129 Tax Bureau.**

The term “tax bureau” shall mean a public nonprofit entity established for the administration and collection of taxes.

**§ 80-130 Tax Collection Committee.**

The term “tax collection committee” shall mean the committee established to govern the Lehigh Tax Collection District for the purpose of income tax collection. The term shall include a joint tax collection committee.

**§ 80-131 Tax Collection District.**

The term “tax collection district” shall mean the Lehigh Tax Collection District established under section 504 of the LTEA, 53 PA. STAT. ANN. § 6924.504, or, where applicable, another such district so established for another portion of the Commonwealth of Pennsylvania.

**§ 80-132 Tax Officer.**

The term “tax officer” shall mean a political subdivision, public employee, tax bureau, county (except a county of the first class), or private agency which administers and collects income taxes for one or more tax collection districts. Unless otherwise specifically provided, for

purposes of the obligations of an employer, the term shall mean the tax officer for the tax collection district within which the employer is located, or, if an employer maintains workplaces in more than one tax collection district, the tax officer for each such district with respect to employees principally employed therein.

### **§ 80-133 Tax Records.**

The term “tax records” shall mean tax returns, supporting schedules, correspondence with auditors or taxpayers, account books, and other documents, including electronic records, obtained or created by the tax officer to administer or collect a tax under this Chapter. The term includes documents required by section 509(e) of the LTEA, 53 PA. STAT. ANN. § 6924.509(e). The term “electronic records” includes data and information inscribed on a tangible medium or stored in an electronic or other medium and which is retrievable in perceivable form.

### **§ 80-134 Tax Register.**

The term “tax register” shall mean a database of all county, municipal, and school tax rates available on the Internet as provided in section 511(a)(1) of the LTEA, 53 PA. STAT. ANN. § 6924.511(a)(1).

### **§ 80-135 Taxable Income.**

The term “taxable income” shall include:

- (a) In the case of an earned income and net profits tax, earned income and net profits;
- (b) In the case of a personal income tax, income enumerated in section 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, 72 PA. STAT. ANN. § 7303, as reported to and determined by the Department of Revenue, subject to correction for fraud, evasion or error, as finally determined by the Commonwealth.

### **§ 80-136 Taxpayer.**

The term “taxpayer” shall mean a person or business required under this Chapter to file a return of an income tax or to pay an income tax.

### **§ 80-137 Withholding Tax.**

The term “withholding tax” shall mean an income tax levied by a political subdivision under the authority of this Chapter or any other ordinance or resolution, or any other tax levied by a municipality or school district for which employer withholding may be required under this Chapter.