

Article III — Imposition of Tax; Exemptions and Refunds

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Article III — Imposition of Tax; Exemptions and Refunds

§ 84-301 In General.

The Borough of Alburtis hereby imposes upon each individual engaged in an occupation within the corporate limits of the Borough local services tax of Fifty-two Dollars (\$52.00) each calendar year, assessed on a *pro rata* basis in the manner set forth in this Chapter.

§ 84-302 Exemptions.

The following persons are exempt from the local services tax imposed under this Chapter:

(a) **Certain Disabled Veterans.** Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic, or a double or quadruple amputee, or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent (100%) permanent disability.

(b) **Reservists Called to Active Duty.** Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during a given calendar year, but only for that calendar year. For purposes of this subsection (b), the term "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard, or the Pennsylvania Air National Guard.

(c) **Persons Earning Under \$12,000.** Any person whose total earned income and net profits from all sources within the corporate limits of the Borough is less than Twelve Thousand Dollars (\$12,000.00) for a given calendar year is exempt from the local services tax for that calendar year.

(d) **Multiple Employment.** A person who is exempt from payment of the local services tax to the Borough for a given payroll period under the provisions of § 84-403 (relating to Multiple Employment), but only for that payroll period.

(e) **Constitutional or Legal Limitations.** Any person engaging in an occupation for which the Borough does not have the power to impose a local services tax under the Constitution of the United State and the Constitution and laws of the Commonwealth of Pennsylvania, but only with respect to that occupation. If the tax imposed under this Chapter shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United State or the Constitution or laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect the tax, or the validity of the tax so imposed, on other individuals.

§ 84-303 [RESERVED]**§ 84-304 Procedure to Claim Exemptions.**

(a) **Exemption Certificate—In General.** A person seeking to claim an exemption from the local services tax imposed under this Chapter may annually (or whenever justified) file an exemption certificate with the Tax Receiver and with the person's employer affirming the facts which justify the exemption and attaching such documentation as is required by the exemption certificate or the Tax Receiver to prove those facts.

(b) **Low Income Exemption Certificate.** A person seeking to claim the exemption under § 84-302(c) (relating to Persons Earning Under \$12,000) must affirm in the exemption certificate that the person reasonably expects to receive earned income and net profits from all sources within the corporate limits of the Borough of less than Twelve Thousand Dollars (\$12,000.00) in the calendar year for which the exemption is filed, and shall attach to the exemption certificate a copy of all the person's last pay stubs or W-2 forms from employment within the corporate limits of the Borough for the calendar year preceding the calendar year for which the person is filing the exemption certificate.

(c) **Uniform Form.** The exemption certificate used under this Section must be the uniform form provided by the Tax Receiver. The Tax Receiver shall issue a uniform form based on the form developed by the Pennsylvania Department of Community and Economic Development, but with such changes and additions as necessary or desirable to conform to the law and this Chapter. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring.

(d) **Employer Relieved From Withholding Tax.** Upon receipt of the exemption certificate and until otherwise instructed by the Tax Receiver, or except as required by subsection (e), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Except as provided in subsection (e), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility, or exempting any employee from the local services tax.

(e) **Withholding After a Person's Income Exceeds \$12,000.**

(1) With respect to a person who claimed an exemption under § 84-302(c) (relating to Persons Earning Under \$12,000) for a given calendar year from the local services tax—

(A) upon notification to an employer by the person or by the Tax Receiver that the person has received earned income and net profits from all sources within the corporate limits of the Borough equal to or in excess of Twelve Thousand Dollars (\$12,000.00) in that calendar year; or

(B) upon an employer's payment to the person of earned income within the corporate limits of the Borough in an amount equal to or in excess of Twelve Thousand Dollars (\$12,000.00) in that calendar year,

the employer shall withhold the local services tax from the person for the remainder of that calendar year in accordance with the remaining paragraphs of this subsection (e).

(2) The amount to be withheld by the employer for the first payroll period after the notification under paragraph (1)(A), or for the payroll period in which the employer's total payments of earned income to the person for the calendar year first satisfies the requirement of paragraph (1)(B), shall be a lump sum equal to the amount of local services tax that was not withheld from the person due to the exemption claimed by the person for the calendar year, plus the per payroll amount due for that payroll period.

(3) The amount of local services tax to be withheld by the employer for the remaining payroll periods in that calendar year after the payroll period described in paragraph (2) shall be the same amount withheld for other employees who are not eligible for an exemption.

(4) In the event the employment of a person subject to withholding of local services tax under this subsection (e) is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the Borough may pursue collection under this Chapter and the Local Tax Enabling Act, 53 PA. STAT. ANN. § 6924.101 *et seq.*

§ 84-305 Refunds.

Refund claims for overpaid local services taxes for any calendar year shall be processed in accordance with the provisions of the Local Taxpayers Bill of Rights Act, 53 PA. CONS. STAT. §§ 8421-8438, as supplemented by the rules, regulations, and procedures set forth in Chapter 87 (relating to Taxpayer Bill of Rights), *except* that:

(a) Refunds made within seventy-five (75) days of a refund request or seventy-five (75) days after the last day the employer is required to remit the local services tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest imposed under 53 PA. CONS. STAT. § 8426.

(b) The Borough shall only provide refunds for amounts overpaid in a calendar year that exceed one dollar (\$1.00).

(c) The Tax Receiver is authorized to determine eligibility for exemption and provide refunds to exempt persons. If the Tax Receiver denies a Petition for Refund, then the Petition shall be forwarded to Council for processing in accordance with the procedures set forth in Chapter 87 (relating to Taxpayer Bill of Rights).