
Chapter 82 — Earned Income Tax

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Article I — Title, Authority, Duration, and Definitions**§ 82-101 Short Title.**

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

§ 82-102 Authority.

This Chapter is enacted under the authority granted by the Local Tax Enabling Act, 53 PA. STAT. ANN. § 6901 *et seq.*

§ 82-103 Duration.

This Chapter shall be effective on January 1, 1966, and shall continue in effect on a calendar or fiscal year basis without annual reenactment unless the rate of the tax is subsequently changed.

§ 82-104 Definitions.

(a) **In General.** The definitions contained in the Local Tax Enabling Act of Subdivision I, Definitions, of 53 PA. STAT. ANN. § 6913, earned income taxes, are hereby adopted by reference as the definitions applicable to this Chapter.

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

Article II — Imposition of Tax

§ 82-201 In General.

A tax for general revenue purposes of one percent (1.00%) is hereby imposed on the following:

(a) Salaries, wages, commissions, and other compensation earned on and after January 1 of the current year by individual residents of the Borough of Alburtis.

(b) Salaries, wages, commissions, and other compensation earned on and after January 1 of the current year by individual nonresidents of the Borough of Alburtis in the Borough of Alburtis.

(c) Net profits earned on and after January 1 of the current year by residents of the Borough of Alburtis.

(d) Net profits earned on and after January 1 of the current year in the Borough of Alburtis by nonresidents of the Borough of Alburtis.

§ 82-202 Items Taxed.

The tax levied under § 82-201(a) and (b) shall relate to and be imposed upon salaries, wages, commissions, and other compensation paid by an employer or on his behalf to a person who is employed by him. The tax levied under § 82-201(c) and (d) shall relate to and be imposed on the net profits of any business, profession, or other activity carried on by any person or persons.

§ 82-203 Corporations Exempt.

Every corporation which is subject to the Pennsylvania Corporate Net Income Tax or exempt from the Pennsylvania Corporate Net Income Tax, and every foreign corporation which is subject to the Pennsylvania Franchise Tax or exempt from the Pennsylvania Franchise Tax, shall be exempt from the tax imposed by this Chapter.

§ 82-204 Other Exemptions.

The tax imposed by this Article shall not apply:

(a) To any person as to whom it is beyond the legal power of the Borough of Alburtis to impose the tax herein provided for under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania; or

(b) To the net profits of any institution or organization operated for public, religious, educational, or charitable purposes; to an institution or organization not organized or operated for private profit; or to a trust or a foundation established for any of said purposes.

§ 82-205 Exemption Not Apply To Employer Obligation To Collect Taxes From Employees.

The provisions of §§ 82-203 and 82-204 shall not be construed to exempt any person who is an employer from the duty of collecting the tax at source from his employees and paying the amount collected to the Borough of Alburtis under the provisions of § 82-305.

§ 82-206 Tax Period for Each Year.

The tax levied by this Chapter shall be applicable to salaries, wages, commissions, and other compensation, and to net profits, earned in the period beginning January 1 and ending December 31 of the current year.

Article III — Declaration, Payment, and Withholding of Tax

§ 82-301 Declaration and Payment of Estimated Tax on Net Profits.

(a) **In General.** Every person, hereinafter called “taxpayer,” who reasonably expects that he will earn any taxable net profits during the period between January 1 and December 31 of the current year, shall, on or before April 15 of the current year, make and file with the Income Tax Officer, on a form prescribed by the Income Tax Officer, a declaration of his estimated net profits for the period beginning January 1 and ending December 31 of the current year, setting forth the estimated amount of net profits reasonably expected by him for the said period and subject to the tax, the amount of estimated tax imposed by this Chapter on such estimated net profits, and such other relevant information as the Income Tax Officer may require. The taxpayer making the declaration shall, at the time of filing thereof, pay to the Borough of Alburtis one-fourth (1/4) of the estimated tax shown as due thereon, and such taxpayer shall thereafter pay one-fourth (1/4) of the estimated tax in each of three (3) installments, as follows: one (1) installment on or before June 15, one (1) installment on or before September 15 of the current year, and the last installment on or before January 15 of the succeeding year.

(b) **Declaration and Payment After April 15th.** A person who on April 15 of the current year did not reasonably expect that he would earn any taxable net profits during the period between January 1 and December 31, and who subsequent to April 15 reasonably expects that he will earn taxable net profit on or before December 31, shall make and file on or before June 15 or September 15 of the current year or January 15 of the succeeding year, whichever of these dates next follows the date on which the taxpayer first reasonably expects such net profits, a declaration similar to that required under subsection (a). The taxpayer making the declaration shall, at the time of filing thereof, pay to the Borough of Alburtis the estimated tax shown as due thereon; *provided*, however, that the taxpayer shall have the right to pay the estimated tax in equal installments on or before the quarterly installment payment dates which remain after the filing of the declaration.

(c) **Adjusted Declarations.** The Income Tax Officer is hereby authorized to provide by regulation, subject to approval of Council, for the making and filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration required under this Section shall thereafter either reasonably expect additional net profits not previously declared or find that he has overestimated his net profits.

§ 82-302 Final Return and Payment of Tax on Net Profits.

(a) **In General.** On or before April 15 of the succeeding year, every taxpayer who has earned taxable net profits for the current year shall make and file with the Income Tax Officer, on a form prescribed by the Income Tax Officer, a final return showing all of such net profits for the period beginning January 1 and ending December 31 of the current year, the total amount of tax due, the amount of estimated tax paid under § 82-301, and the balance due. When the return is made for a fiscal year different from the calendar year, the return shall be made within one

hundred five (105) days from the end of the said fiscal year. The percentage of the total net profits of any calendar year of a taxpayer beginning or ending within the period beginning January 1 and ending December 31 of the current year to which the tax imposed by this Chapter shall be applicable shall be equal to the same percentage of such total net profits as the number of days in any such year within such period bears to the total number of days in any such year. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

(b) Discontinuance of Business. Every taxpayer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after the discontinuance of business, file his final return as hereinabove required, pay the tax due or demand refund or credit in the case of overpayment.

§ 82-303 Declaration and Payment of Estimated Tax on Compensation.

(a) In General. Every taxpayer who is employed on a salary, wage, commission, or other compensation basis and who reasonably expects to earn any taxable earnings not subject to the provisions of § 82-305 (relating to the collection at source by employers) shall, on or before April 15 of the current year, make and file with the Income Tax Officer a declaration of his estimated total amount of taxable salaries, wages, commissions and other compensation for the period beginning January 1 and ending December 31 of the current year, the estimated amount of the tax thereon that will be deducted therefrom pursuant to § 82-305, the estimated amount of tax imposed by this Article that will not be deducted therefrom pursuant to § 82-305, and such other relevant information as the Income Tax Officer may require. In preparing his declaration of estimated taxable salaries, wages, commissions and other compensation taxable under this Chapter, the taxpayer shall use the same amounts with respect to such items as he shall have used in preparing his declaration of estimated tax for the current year for federal income tax purposes if such taxpayer shall be required to file any such last-mentioned declaration.

(b) Declaration and Payment After April 15th. A person who on April 15 of the current year did not reasonably expect that he would earn any salaries, wages, commissions, and other compensation not subject to the provisions of § 82-305 (relating to the collection at source by employers) during the period between January 1 and December 31, and who subsequent to April 15 reasonably expects that he will earn salaries, wages, commissions, and other compensation not subject to the provisions of § 82-305 on or before December 31, shall make and file on or before June 15 or September 15 of the current year or January 15 of the succeeding year, whichever of these dates next follows the date on which the taxpayer first reasonably expects that he will earn such salaries, wages, commissions, and other compensation, a declaration similar to that required under subsection (a). The taxpayer making the declaration shall, at the time of filing thereof, pay to the Borough of Alburtis the estimated tax shown as due thereon; *provided*, however, that the taxpayer shall have the right to pay the estimated tax in equal installments on or before the quarterly installment payment dates which remain after the filing of the declaration.

(c) Adjusted Declarations. The Income Tax Officer is hereby authorized to provide by regulation, subject to approval of Council, for the making and filing of adjusted declarations of estimated salaries, wages, commissions, and other compensation, and for the payments of the

estimated tax, in cases where a taxpayer who has filed the declaration hereinabove required shall thereafter either reasonably expect additional salaries, wages, commissions and other compensation not previously declared or find that he has overestimated his salaries, wages, commissions, and other compensation.

§ 82-304 Final Return and Payment of Tax on Net Profits.

On or before April 15 of the succeeding year, every taxpayer who has received taxable salaries, wages, commissions, and other compensation for the current year shall make and file with the Income Tax Officer, on a form prescribed by the Income Tax Officer, a final return showing all such salaries, wages, commissions, and other compensation earned during the period beginning January 1 and ending December 31 of the current year, the total amount of tax due thereon, the amount of estimated tax thereon paid under the provisions of § 82-303, if any, and the amount, if any, of tax thereon that has been withheld pursuant to the provisions of § 82-305, and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

§ 82-305 Collection at Source By Employers.

(a) **In General.** Every person within the Borough of Alburtis who employs one (1) or more persons on a salary, wage, commission, or other compensation basis, other than domestic servants, shall deduct at the time of the payment thereof the tax imposed by this Chapter on the salaries, wages, commissions, and other compensation due to his employee or employees, and shall, on or before April 30, July 31, and October 31 of the current year, and January 31 of the succeeding year, respectively, make and file with the Income Tax Officer, on a form prescribed by the Income Tax Officer, a return setting forth the taxes so deducted, and pay to the Borough of Alburtis the amount of taxes deducted for the preceding quarter ending March 31, June 30, September 30, and December 31 of the current year, respectively.

(b) **Monthly Payments.** The Income Tax Officer is hereby authorized to provide by regulations, approved by Council, for payments on a monthly basis where an aggregate amount of tax in excess of Fifty Dollars (\$50.00) per month is deducted.

(c) **Trust Fund for Benefit of Borough; Credit to Employee.** If an employer makes a deduction of tax as required by this Section, the amount deducted shall constitute in the hands of such employer a trust fund held for the account of the Borough of Alburtis as beneficial owner thereof, and the employee from whose salaries, wages, commissions, or other compensation such tax was deducted shall be deemed to have paid such tax.

(d) **Employees Retain Responsibility For Tax.** The failure or omission of any employer to make the deductions required by this Section shall not relieve any employee from the payment of the tax or from complying with the requirements of this Chapter relating to the filing of declarations and returns.

§ 82-306 Returns By Employers.

(a) **In General.** On or before January 31 of the succeeding year, every employer required to withhold taxes under § 82-305 shall file with the Income Tax Officer, on forms prescribed by the Income Tax Officer:

(1) **Total Return.** An annual return showing the total amount of salaries, wages, commissions, and other compensation earned by his employee or employees on which a tax is imposed by this Chapter, the total amount of tax deducted, and the total amount paid to the Borough of Alburty in respect of salaries, wages, commissions, and other compensation earned by his employee or employees during the period beginning January 1 and ending December 31 of the current year.

(2) **Return for Each Employee.** A return in respect of each person who was an employee during all or any part of the period beginning January 1 and ending December 31 of the current year and who earned during such period any salaries, wages, commissions, or other compensation subject to the tax imposed by this Chapter, setting forth the employee's name, address, and social security number; the amount of such salaries, wages, commissions, or other compensation earned by the employee during said period; the amount of tax deducted therefrom, and such relevant information as the Income Tax Officer may require. Every employer shall furnish a copy of the individual return to the employee in respect of whom it was filed.

(b) **Discontinuance of Business.** Every employer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after the discontinuance of business, file the returns hereinabove required and pay the tax due.

§ 82-307 Failure to Receive or Procure Forms.

The failure of any person to receive or procure the forms required for making any declaration or return required by this Chapter shall not excuse him from making such declaration or return.

Article IV — Administration

§ 82-401 Powers and Duties of the Income Tax Officer.

(a) **Receiver of Taxes.** The Income Tax Officer is hereby designated receiver of the taxes imposed by this Chapter. He shall be bonded, in such principal amount as Council shall designate, by a good and reliable bonding company at all times for all money coming into his hands for Borough purposes under this Chapter, the costs of which bond shall be paid by the Borough. It shall be the duty of the Income Tax Officer to collect and receive the taxes, fines, and penalties imposed by this Chapter. It shall also be his duty to keep a record showing the

amount received by him from each person paying the tax and, if paid by such person in respect to another person, the name of such other person and the date of such receipt.

(b) Administration, Enforcement, Regulations. The Income Tax Officer is hereby charged with the administration and enforcement of the provisions of this Chapter, and is hereby empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Chapter, subject to approval of Council, including provisions for the reexamination and correction of declarations and returns and of payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred, and for the reasonable extension of time, upon proper cause shown, for filing declarations or returns, and to prescribe forms necessary for the administration of this Chapter.

(c) Examinations and Investigations. The Income Tax Officer and agents designated in writing by him are hereby authorized to examine the books, papers, and records of any person in order to verify the accuracy of any declaration or return or, if no declaration or return was filed, to ascertain the tax due. Every person is hereby directed and required to give to the Income Tax Officer or to any agent so designated by him the opportunity for such examinations and investigations as are hereby authorized.

(d) Confidentiality. Any information gained by the Income Tax Officer, his agents, or any other official, agent, or employee of the Borough of Alburty as a result of any declarations, returns, investigations, hearings, or verifications required or authorized by this Chapter shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this Chapter or as otherwise provided by law.

(e) Appeals. Any person aggrieved by any action of the Income Tax Officer shall have the right of appeal as provided by law.

§ 82-402 Joint Agreements With Other Political Subdivisions.

Council is hereby authorized, if it deems it advisable, to enter into a joint agreement with any other political subdivision or subdivisions for the employment of the same person or agency to collect any taxes imposed under this Chapter and imposed by such subdivision under authority of the Local Tax Enabling Act, 53 PA. STAT. ANN. § 6901 *et seq.*

§ 82-403 Suit for Collection of Tax.

(a) In General. The Income Tax Officer, through the Borough Solicitor, may sue in the name of the Borough of Alburty for the recovery of taxes due and unpaid under this Chapter.

(b) Statute of Limitations. Any suit brought to recover the tax imposed by this Chapter shall be begun within six (6) years after such tax is due or within six (6) years after a declaration or return has been filed, whichever date is later; *provided*, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

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

(2) In the case of a false or fraudulent declaration or return with the intent to evade the tax.

(3) Where any person has deducted taxes under the provisions of this Chapter and has failed to pay the amounts so deducted to the Borough of Alburtis.

§ 82-404 Payment Under Protest; Refunds.

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

Article V — Violations, Interest, and Penalties

§ 82-501 Penalties Are Cumulative.

The penalties imposed under this Article shall be cumulative, and shall be in addition to any other penalty imposed by any other provision of this Chapter.

§ 82-502 Interest, Civil Penalties, and Collection Costs.

If for any reason the tax is not paid when due, interest at the rate of six percent (6.00%) per annum on the amount of said tax, and an additional penalty of one-half of one percent (0.50%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties imposed under this Chapter.

§ 82-503 Criminal Penalties—In General.

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

by this Chapter, shall, upon conviction thereof before a District Justice, be sentenced to pay a fine of not more than Five Hundred Dollars (\$500.00) for each offense and costs, and, in default of payment of said fine and costs, to be imprisoned in the Lehigh County Jail for a period not exceeding thirty (30) days.

§ 82-504 Breach of Confidentiality.

Any person who, except as permitted by the provisions of § 82-401(d), divulges any information which is confidential under the provisions of § 82-401(d), shall, upon conviction thereof before a District Justice, be sentenced to pay a fine of not more than Five Hundred Dollars (\$500.00) for each offense and costs, and, in default of payment of said fine and costs, to be imprisoned in the Lehigh County Jail for a period not exceeding thirty (30) days.

Appendix

¶ 82-A Disposition of Ordinance 121.

Ordinance 121 was the last Earned Income Tax Ordinance enacted under the authority of the 1947 “Tax-Anything” Act, which required annual ordinances. Ordinance 121 was enacted for calendar year 1966. Ordinance 127 re-enacted the provisions of Ordinance 121 under the authority of the Local Tax Enabling Act for calendar year 1967 and succeeding years.

<u>Ordinance 121</u>	<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ I	§ 117-38	§ 82-104
§ II (1 st paragraph, including its subparagraphs (a) through (d))	§ 117-39(A)	§ 82-201
§ II (2 nd paragraph)	§ 117-39(B)	§ 82-202
§ II (3 rd paragraph)	§ 117-39(C)	§ 82-203
§ II (4 th paragraph)	§ 117-39(D)	§ 82-206
§ III(a)(1)	§ 117-40(A)(1)	§ 82-301(a)
§ III(a)(2)	§ 117-40(A)(2)	§ 82-301(b)
§ III(a)(3)	§ 117-40(A)(3)	§ 82-301(c)
§ III(a)(4)	§ 117-40(A)(4)	§ 82-302(a)
§ III(a)(5)	§ 117-40(A)(5)	§ 82-302(b)
§ III(b)(1)	§ 117-40(B)(1)	§ 82-303(a)
§ III(b)(2)	§ 117-40(B)(2)	§ 82-303(b)
§ III(b)(3)	§ 117-40(B)(3)	§ 82-303(c)
§ III(b)(4)	§ 117-40(B)(4)	§ 82-304
§ IV(a) (1 st paragraph)	§ 117-41(A) (except last sentence)	§ 82-305(a)
§ IV(a) (2 nd paragraph)	§ 117-41(A) (last sentence)	§ 82-305(b)
§ IV(b)	§ 117-41(B)	§ 82-306(a)

<u>Ordinance 121</u>	<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ IV(c)	§ 117-41(C)	§ 82-306(b)
§ IV(d)	§ 117-41(D)	§ 82-305(d)
§ IV(e)	§ 117-41(E)	§ 82-305(c)
§ V	§ 117-42	§ 82-401
§ VI	§ 117-43	§ 82-402
§ VII	§ 117-44	§ 82-403
§ VIII	§ 117-45	§ 82-502
§ IX	§ 117-46	§ 82-404
§ X (except last paragraph)	§ 117-47(A)	§ 82-204
§ X (last paragraph)	§ 117-47(B)	§ 82-205
§ XI(a)	§ 117-48(A)	§ 82-503
§ XI(b)	§ 117-48(B)	§ 82-504
§ XI(c)	§ 117-48(C)	§ 82-501
§ XI(d)	§ 117-48(D)	§ 82-307
§ XII (severability)		
§ XIII (repealer)		
§ XIV	§ 117-49	§ 82-103

§ 82-B Disposition of 1981 Code, Chapter 117, Article IV.

<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ 117-38	§ 82-104
§ 117-39(A)	§ 82-201
§ 117-39(B)	§ 82-202
§ 117-39(C)	§ 82-203
§ 117-39(D)	§ 82-206
§ 117-40(A)(1)	§ 82-301(a)
§ 117-40(A)(2)	§ 82-301(b)
§ 117-40(A)(3)	§ 82-301(c)
§ 117-40(A)(4)	§ 82-302(a)
§ 117-40(A)(5)	§ 82-302(b)
§ 117-40(B)(1)	§ 82-303(a)
§ 117-40(B)(2)	§ 82-303(b)
§ 117-40(B)(3)	§ 82-303(c)
§ 117-40(B)(4)	§ 82-304
§ 117-41(A) (except last sentence)	§ 82-305(a)
§ 117-41(A) (last sentence)	§ 82-305(b)
§ 117-41(B)	§ 82-306(a)
§ 117-41(C)	§ 82-306(b)
§ 117-41(D)	§ 82-305(d)
§ 117-41(E)	§ 82-305(c)
§ 117-42	§ 82-401
§ 117-43	§ 82-402
§ 117-44	§ 82-403
§ 117-45	§ 82-502

<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ 117-46	§ 82-404
§ 117-47(A)	§ 82-204
§ 117-47(B)	§ 82-205
§ 117-48(A)	§ 82-503
§ 117-48(B)	§ 82-504
§ 117-48(C)	§ 82-501
§ 117-48(D)	§ 82-307
§ 117-49	§ 82-103

¶ 82-C Source Ordinances.

The following ordinances are the source of the text in this Chapter 82. This list does not include the annual ordinances prior to Ordinance 121 listed in ¶ 82-D, or the ordinances listed in ¶ 82-E which merely confirm the tax for a particular year.

Ordinance 121	03-07-1966
Ordinance 127	12-19-1966
Ordinance 215	11-11-1981
Ordinance 415	10-29-2003

¶ 82-D Annual Ordinances Under The 1947 “Tax-Anything” Act.

1958	Ordinance 73	02-28-1958
1959	Ordinance 78	12-22-1958
1963	Ordinance 100	12-03-1962
1964	Ordinance 106	03-02-1964
1965	Ordinance 111	03-01-1965
1966	Ordinance 121	03-07-1966

¶ 82-E Annual Ordinances Confirming Tax.

1990	Ordinance 278	12-27-1989
1991	Ordinance 284	12-26-1990
1992	Ordinance 288	12-30-1991
1993	Ordinance 296	12-30-1992

1994	Ordinance 305	12-29-1993
1995	Ordinance 314	12-28-1994
1996	Ordinance 323	12-27-1995
1997	Ordinance 345	12-30-1996
1998	Ordinance 355	12-29-1997
1999	Ordinance 362	12-30-1998
2000	Ordinance 378	12-29-1999
2001	Ordinance 384	12-27-2000
2002	Ordinance 393	12-26-2001
2003	Ordinance 402	12-23-2002