

PART 4
LOCAL SERVICES TAX

§ 24-401. Authority. [Ord. 303, 11/13/2007]

This Part is adopted in conformance with and pursuant to authority granted by Sections 1006(3) and 1202(74) of the Borough Code [3 P.S. §§ 46006(3) and 46202(74)], as amended, and Section 6901 et seq. of the Pennsylvania Local Tax Enabling Act [53 Pa.C.S.A. § 6901 et seq.], as amended.

§ 24-402. Purpose. [Ord. 303, 11/13/2007]

This Part is adopted to promote and protect the health, safety, and welfare of the residents of Middleburg Borough by repealing Ordinance 290, Emergency Services Tax, of the Code of the Borough of Middleburg and by enacting a local services tax to generate revenue for police, fire and/or emergency services, road construction and/or maintenance, and possibly the reduction of property taxes and/or through the implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S.A. Chapter 85, Subchapter F. This Part pertains only to Chapter 24, and all references to sections are to sections of this chapter.

§ 24-403. Definitions and Word Usage. [Ord. 303, 11/13/2007]

1. The following words used in this Part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

BOROUGH — The Borough of Middleburg, Snyder County, Pennsylvania.

BOROUGH ADMINISTRATOR — The duly appointed Administrator of the Borough.

BOROUGH COUNCIL — The duly elected Council of the Borough of Middleburg, Snyder County, Pennsylvania.

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

EARNED INCOME — Compensation as determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2) (72 P.S. § 7303), known as the "Tax Reform Code of 1971," and regulations of 61 Pa. Code, Part I, Subpart B, Article V (61 Pa. Code § 101.1 et seq.) (relating to personal income tax), not including, however, wages or compensation paid to individuals on active military service. 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.

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

INDIVIDUAL — Any person, male or female, engaged in any occupation within the Borough.

MIDDLEBURG BOROUGH — The area within the municipal limits of the Borough.

NET PROFITS — The net income from 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) (72 P.S. § 7303), known as the Tax Reform Code of 1971, and regulations of 61 Pa. Code, Part I, Subpart B, Article V (61 Pa. Code § 101.1 et seq.) (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 12 months or more for draft, breeding or dairy purposes; and
- D. Any gain on the sale of other capital assets of the farm.

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

PAYROLL PERIOD — The calendar year divided by the number of payrolls of a person's employer. For a self-employed person, a payroll period shall be one week.

PERSON — A natural person, male or female, engaged in any occupation within Middleburg Borough.

RECEIVER OF TAXES — The Tax Collector selected by a resolution of the Borough Council to receive and collect the Local Services Tax.

TAX — The Middleburg Borough Local Services Tax (LST) in the amount of \$52 levied by this Part.

2. Word Usage. "He," "his," or "him" shall mean and indicate the singular and plural numbers as well as male, female, and neuter genders.

§ 24-404. Levy. [Ord. 303, 11/13/2007]

The Borough Council hereby levies and imposes a local services tax on each person engaged in an occupation within Middleburg Borough during the effective term of this Part. The tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough Council and shall continue from year to year until duly repealed.

§ 24-405. Amount of Tax. [Ord. 303, 11/13/2007]

Beginning on the effective date of this Part, each person engaged in an occupation within Middleburg Borough during the effective term of this Part shall pay a local services tax in the amount of \$52 per year, assessed on a pro rata basis for each payroll period in which the person is engaging in an occupation, such share to be determined by dividing the annual tax by the number of payroll periods established by the employer, rounded down to the nearest one-hundredth of a dollar.

§ 24-406. Duty of Employer. [Ord. 303, 11/13/2007]

Each employer within Middleburg Borough and each employer situate outside of Middleburg Borough who engages in business within Middleburg Borough is hereby charged with the duty of collecting from each person engaged by him and performing an occupation for him within Middleburg Borough the tax and making a return and payment thereof to the Receiver of Taxes. Further, each employer is hereby authorized to deduct the tax from each person in his employ, whether such person is paid by salary, wages, or compensation and whether part or all of such occupation is performed within Middleburg Borough.

§ 24-407. Returns. [Ord. 303, 11/13/2007]

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Borough Administrator or the Receiver of Taxes. It is further provided that if the employer fails to file said return and pay the tax, whether or not he makes collection thereof from the salary, wages, or commission paid by him to the persons engaged by him in an occupation within Middleburg Borough, the employer shall be responsible for the payment of the tax in full as though the tax had originally been levied against him.

§ 24-408. Dates for Determining Tax Liability and Payment. [Ord. 303, 11/13/2007]

Beginning on January 1, 2008, and continuing each year thereafter, each employer shall deduct the pro rata share on a payroll basis for each payroll period in which the employee is engaged in an occupation, except as set forth below. Tax deducted shall be paid over to the Borough quarterly, within 30 days after the end of the quarter.

§ 24-409. Persons Engaged in More Than One Occupation. [Ord. 303, 11/13/2007]

Each person who is engaged in more than one occupation shall be subject to the payment of the tax on his principal occupation, and his principal employer shall deduct the tax and deliver to him evidence of the deduction on a form to be furnished to the employer by the Borough Administrator or the Receiver of Taxes, which form shall be evidence of the deduction having been made and, when presented to any other employer, shall be authority for such employer to not deduct the tax from the person's wages, but to include such person on his return by setting forth his name, address and the name and account number of the employer who deducted the tax.

§ 24-410. Self-Employed Persons. [Ord. 303, 11/13/2007]

Each self-employed person engaged in an occupation within Middleburg Borough shall be required to comply with this Part and pay the tax to the Receiver of Taxes quarterly on a pro rata basis within 30 days of the end of the quarter. In the alternative, a self-employed person may, at his option, pay the full annual levy of \$52 on before April 30 of the tax year.

§ 24-411. Nonresident Employers and Self-Employed Persons. [Ord. 303, 11/13/2007]

All employers and self-employed persons residing or having their place of business outside Middleburg Borough, but who themselves or whose employees engage in an occupation within Middleburg Borough, are by virtue thereof bound by and are subject to the provisions, penalties, and regulations promulgated under this Part. Furthermore, any employee of a nonresident employer or any person engaged in an occupation within Middleburg Borough may, for the purpose of this Part, be considered a self-employed person; and, in the event the tax is not paid, the Borough shall have the option of proceeding against either the employer or the employee for the collection of the tax as hereinafter provided.

§ 24-412. Administration of Tax. [Ord. 303, 11/13/2007]

1. It shall be the duty of the Receiver of Taxes to accept and receive payment of the tax and to keep record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received.
2. The Borough Administrator is hereby charged with the administration and enforcement of this Part and is hereby charged and empowered to adopt rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination of the payroll records of any employer subject to this Part, the examination and correction of any return made in compliance with this Part, any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Borough

Administrator shall have the right to appeal to the Snyder County Court of Common Pleas as in other cases involved.

3. The Borough Administrator is hereby authorized to examine the books and payroll records of any employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Borough Administrator the means, facilities and opportunity for such examination.

§ 24-413. Suits for Collection. [Ord. 303, 11/13/2007]

1. In the event that the tax under this Part remains due or unpaid 30 days after the dates set forth above, the Borough Administrator may sue for the recovery of the tax due or unpaid under this Part, together with interest and penalty.
2. If, for any reason, the tax is not paid when due, interest at the rate of 10% on the amount of the tax shall be calculated beginning with the due date of the tax; and a penalty of 25% shall be added to the flat rate of the tax for nonpayment thereof. When suit is brought for the recovery of the tax, the person liable therefor shall, in addition, be responsible and liable for the costs of collection, including reasonable attorneys' fees.

§ 24-414. Violations and Penalties. [Ord. 303, 11/13/2007; as amended by Ord. 323, 9/9/2014]

Whoever makes any false or untrue statements on any return required by this Part; or whoever refuses inspection of his books, records or accounts in his custody and control, setting forth the number of persons or employees subject to this tax who are in his employment; or whoever fails or refuses to file any return required by this Part shall, upon conviction before the Magisterial District Judge, be sentenced to pay a fine of not less than \$250 nor more than \$1,000 for each offense and, in default of payment of said fine, be imprisoned in the Snyder County Prison for a period not exceeding 30 days for each offense. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refuses to file a return required by this Part.

§ 24-415. Exemptions. [Ord. 303, 11/13/2007]

1. The following individuals shall be exempt from paying the tax herein levied:
 - A. Any person who 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, that 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 100% permanent disability.

- B. Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For purposes of this subsection, 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. Any person whose total earned income and net profits from all sources within the Borough is less than \$12,000 for the calendar year in which the local services tax is levied.
2. The Borough shall adopt procedures and forms necessary for processing the exemption of individuals and for the refunding of taxes paid but not due.

§ 24-416. Affirmation. [Ord. 303, 11/13/2007]

This Part to amend the above portions of Chapter 24 of the Code of the Borough of Middleburg shall affect only those portions. The remaining portions of Chapter 24 are hereby affirmed and shall remain in full force and effect.