

TAXATION

Chapter 117

TAXATION

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[HISTORY: Adopted by the Borough Council of the Borough of Alburdis: Art. I, 3-7-66 as Ord. No. 120, approved 3-7-66; Art. II, 11-23-66 as Ord. No. 125; Art. III, 5-12-76 as Ord. No. 178, approved 5-12-76; Art. IV, 3-7-66 as Ord. No. 121, approved 3-7-66. Sections 117-1, 117-7, 117-13, 117-15, 117-20, 117-23, 117-25, 117-35, 117-38A, 117-39, 117-40, 117-41, 117-48A, 117-48B and 117-49 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Social security — See Ch. 33.

ARTICLE I

Per Capita Tax

[Adopted 3-7-66 as Ord. No. 120, approved 3-7-66]

§ 117-1. Imposition of tax.¹

An annual per capita tax of five dollars (\$5.) is hereby levied and assessed upon each resident or inhabitant of the Borough of

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Alburtis over eighteen (18) years of age, which tax shall be for general borough purposes and in addition to all other taxes levied and assessed by the Borough of Alburtis pursuant to any other laws of the Commonwealth of Pennsylvania.²

§ 117-2. Collection of tax.

Said tax shall be collected by the duly elected or appointed Tax Collector of Borough Taxes for the Borough of Alburtis in the same manner and at the same time or times as other borough taxes are collected, as provided by the Local Tax Collection Law of 1945, as amended and supplemented.³

§ 117-3. Bond of Collector.

The Tax Collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law for other Borough Taxes.

§ 117-4. Warrant for collection of tax.

The entry of said per capita tax in the tax duplicate to the Tax Collector shall constitute his warrant for the collection of said per capita tax hereby levied and assessed.

§ 117-5. Expenses of collection.

The expenses of collection and compensation of the Tax Collector shall be paid and allowed as provided in the Local Tax Collection Law of 1945, as amended and supplemented, which compensation shall be the same as fixed from time to time by the Borough of Alburtis for the collection of other borough taxes.

² Editor's Note: Statutory authority for the enactment of this Article was cited in the enacting clause. The current statutory authority is the Local Tax Enabling Act, 53 P.S. § 6901 et seq.

³ Editor's Note: See 72 P.S. § 5511.1 et seq.

§ 117-6. Notice to taxpayers.

The Tax Collector shall give notice to the taxpayers at the same time and in the same manner as provided by the Local Tax Collection Law of 1945, as amended and supplemented.

§ 117-7. Addition of names to tax duplicate.⁴

In case the Tax Collector or a Deputy Tax Collector shall at any time find within the Borough of Alburdis any resident or inhabitant above the age of eighteen (18) years whose name does not appear upon the tax duplicate, he shall report the name of such person forthwith to the Assessor, who shall thereupon certify same unto the Borough of Alburdis, which shall promptly certify the same to the Tax Collector reporting said name, whereupon the Tax Collector shall add the name and assessment of this per capita tax against such person to the duplicate of the Borough of Alburdis and proceed to collect same.

§ 117-8. Collection of tax by distraint and sale.

The Tax Collector shall be and is hereby empowered with the authority to collect said tax by distress and sell all goods and chattels of the taxpayer, as provided therefor by the Local Tax Collection Law of 1945, as amended and supplemented.

§ 117-9. Collection from source.

There is hereby conferred upon the Tax Collector the power and authority to demand, receive and collect per capita taxes from all corporations, political subdivisions, associations, companies, firms or individuals employing persons owing per capita taxes or whose wife owes per capita taxes, or if in possession of unpaid commissions or earnings belonging to any person owing per capita taxes or whose wife owes per capita taxes, upon the presentation of written notice and demand containing the name of the taxable or husband thereof and the amount of tax due. Upon the

⁴ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

presentation of such written notice and demand, it shall be the duty of such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees then owing or that shall within sixty (60) days thereafter become due, or from any unpaid commissions or earnings of any taxable in its or his possession or that shall within sixty (60) days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the per capita taxes and costs shown upon the written notice or demand, and to pay the same to the Tax Collector of the Borough of Alburtis within sixty (60) days after such notice shall have been given. The employer shall be entitled to deduct not more than two percent (2%) for his expenses for such moneys paid over to the Tax Collector. Upon the failure of such employer to make such deduction when properly notified as herein provided, such employer shall forfeit and pay the amount of such tax for each such taxable whose taxes are not withheld and paid over to the Tax Collector as herein provided, which amount may be recovered by an action of assumpsit in a suit to be instituted by the Tax Collector on behalf of the Borough of Alburtis.

§ 117-10. Record of collections; payment to Treasurer.

The Tax Collector shall keep a correct account of all per capita taxes collected by authority of this Article. He shall mark the same paid on each duplicate at the name of each taxable and the date on which payment was made. The Tax Collector shall remit said taxes to the Treasurer of the Borough of Alburtis by a separate statement at the same time as other taxes are remitted to the Borough of Alburtis.

§ 117-11. Discounts and penalties.

All taxpayers subject to the payment of the per capita taxes herein levied and assessed shall be entitled to a discount of two percent (2%) of the amount of such tax upon making payment of the whole amount thereof within two (2) months after the date of the tax notice. All taxpayers who fail to make payment of any such taxes charged against them for a period of four (4) months

after the date of the tax notice shall be charged a penalty of five percent (5%), which penalty shall be added to the taxes by the Tax Collector and be collected by him.

§ 117-12. Powers and duties of Tax Collector.

It is the intent of this Article and there is hereby conferred upon the Tax Collector all the powers, together with all the duties and obligations, to the same extent and as fully as provided for in the Local Tax Collection Law of 1945, as amended and supplemented.⁵

§ 117-13. When effective; continuance.⁶

This Article shall go into effect thirty (30) days after adoption and shall continue in effect on a calendar year basis without annual reenactment unless the rate of the tax is subsequently changed.

ARTICLE II
Occupational Privilege Tax
[Adopted 11-23-66 as Ord. No. 125]

§ 117-14. Definitions.

The following words and phrases, when used in this Article, shall have the meaning ascribed to them in this section unless the context clearly indicates otherwise:

EMPLOYER — An individual, partnership, limited partnership, association or corporation that engages the services of any individual and makes payment to said individual whether by salary, wages or commission. "Employer" shall encompass self-employed persons who engage in their employ the services of one (1) or more individuals in addition to themselves.

⁵ Editor's Note: See 72 P.S. § 5511.1 et seq.

⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

INDIVIDUAL — Any person who attains or is over the age of eighteen (18) years as of January 1, 1967, engaged in any occupation of any nature, type or kind whatsoever within the corporate limits of the Borough of Alburdis, whether in the employ of another or self-employed during the year 1967, from the effective date of this Article.

OCCUPATION — Any trade, profession, business or undertaking of any kind carried on or performed within the corporate limits of the Borough of Alburdis for which recompense is received in excess of five hundred dollars (\$500.), whether by means of salary, wages, commissions or, if the individual be self-employed, by payment for services rendered.

TAX RECEIVER — The person designated by the Borough of Alburdis for the collection of occupational privilege taxes.

§ 117-15. Imposition of tax.⁷

From and after the first day of January 1967, the Borough of Alburdis hereby imposes upon each individual engaged in an occupation within the corporate limits of the borough an annual occupational privilege tax in the manner and at the rates hereinafter set forth.

§ 117-16. Amount of tax.

For the calendar year beginning January 1, 1967, each individual engaged in an occupation within the Borough of Alburdis shall pay an annual tax of ten dollars (\$10.).

§ 117-17. Penalty for late payment.

If the tax herein shall be paid within three (3) months next following the first day of January 1967, the same shall be paid on

⁷ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

a flat rate basis; but if the said tax be paid any time after the expiration of the flat rate payment period, a five-percent penalty shall be thereunto added. If said tax shall not be paid within the calendar year first due, interest at a rate of six percent (6%) per annum shall be thereunto added.

§ 117-18. Collection by employer.

Each employer within the Borough of Albury is hereby charged with the duty of collecting and paying over to the Borough Tax Receiver the tax levied hereunder, yearly, upon each individual within his employ subject to said tax. Each employer shall make a return and payment of said tax and is authorized to deduct said occupational tax from each employee earning wages in his service. Each employer shall make and file a return showing a computation of the tax on a form to be obtained by him from the Borough Tax Receiver.

§ 117-19. Multiple employment.

Each individual who shall have more than one (1) occupation within the Borough of Albury shall be subject to the payment of annual occupational privilege tax solely upon his principal occupation. A certificate of employment shall be furnished by each employer, upon a form furnished by the Borough Tax Receiver, to each employee engaged in multiple employment upon request of the employee.

§ 117-20. Initial determination of liability; subsequent reports.*

Employers shall use employment records as of January 1 of each year for the purpose of initial determination of liability for withholding, report and payment. Thereafter reports shall be made to the Borough Tax Receiver promptly upon the employment of newly hired individuals.

* Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 117-21. Duties of Tax Receiver.

- A. It shall be the duty of the Borough Tax Receiver to collect and receive the tax imposed by this Article and to keep full and accurate records.
- B. The Borough Tax Receiver is hereby charged with the administration of the provisions of this Article and is, in addition, empowered to promulgate rules and regulations in furtherance of this duty. Any person aggrieved by any decision of the Borough Tax Receiver shall have the right of appeal to the Court of Common Pleas of Lehigh County as in similar cases made and provided.
- C. The Borough Tax Receiver is hereby authorized to examine the books and records of any employer in order to verify the accuracy of returns in his office.

§ 117-22. Collection of delinquent taxes.

The Borough of Alburdis is hereby authorized to proceed to collect delinquencies as in other cases wherein collection of unpaid claims is allowed.

§ 117-23. Violations and penalties.⁹

Whoever makes any false or untrue statement in any return required by this Article, or whoever refuses inspection of his books, records or accounts in his custody or control, upon reasonable request, or whoever fails or refuses to file any return required by this Article, shall, upon conviction thereof, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for a period not to exceed thirty (30) days.

§ 117-24. Statutory authority.

This Article is enacted under the authority of the Local Tax Enabling Act of 1965, P.L. 511, effective January 1, 1966.¹⁰

⁹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

¹⁰ Editor's Note: See 53 P.S. § 6801 et seq.

§ 117-25. Continuing effect.¹¹

This Article shall continue in effect on a calendar or fiscal year basis without annual reenactment unless the rate of the tax is subsequently changed.

ARTICLE III**Realty Transfer Tax****[Adopted 5-12-76 as Ord. No. 178, approved 5-12-76]****§ 117-26. Definitions.**

The following words, when used in this Article, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

ASSOCIATION — A partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two (2) or more persons.

CORPORATION — A corporate organization or joint-stock association organized under the laws of the Commonwealth of Pennsylvania, the United States of America or any other state, territory or foreign country or dependency, including but not limited to banking institutions.

DOCUMENT — Any deed, instrument or writing whereby any lands, tenements or hereditaments within this commonwealth or any interest therein shall be granted, bargained, sold or otherwise conveyed to the grantee, purchaser or other person, but does not include wills, mortgages, transfers between husband and wife, transfers between parent and child or the spouse of such child, leases and any other documents, transfers or conveyances as are specifically exempt or excepted from the Pennsylvania Realty Transfer Tax of December 27, 1951, as amended.¹²

PERSON — Every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term

¹¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

¹² Editor's Note: See 72 P.S. § 3283 et seq.

“person” as applied to association shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

TRANSACTION — The making, executing, delivering, accepting or presenting for recording of a document of any type or kind transferring title to or any interest in real property located within the Borough of Alburdis.

VALUE — In the case of any document granting, bargaining, selling or otherwise conveying any land, tenement or hereditament or interest therein, the amount of the actual consideration therefor, including liens or other encumbrances thereon and ground rents, or a commensurate part of the liens or other encumbrances thereon and ground rents where such liens or other encumbrances and ground rents also encumber or are charged against other lands, tenements or hereditaments; provided that where such documents shall set forth a small or nominal consideration, the “value” thereof shall be determined from the price set forth in or actual consideration for the contract of sale, or, in the case of a gift or any other document without consideration, from the actual monetary worth of the property granted, bargained, sold or otherwise conveyed, which, in either event, shall not be less than the amount of the highest assessment of such lands, tenements or hereditaments for local tax purposes.

§ 117-27. Imposition of tax.

A tax for borough revenue purposes is levied, assessed and imposed, at the rate of one per centum (1%) of the value, on real property or any interest therein conveyed or transferred, lying within the Borough of Alburdis, Lehigh County, Pennsylvania, regardless of where the instruments making the transfers are made, executed or delivered, or where the actual settlements on such transfers are made, executed or delivered, or where the actual settlements on such transfers take place, or where the transaction took place.

§ 117-28. Land divided by borough boundary.

Where lands lying partly within the boundaries of the Borough of Alburdis and partly without said boundaries are transferred, the tax herein imposed shall be calculated upon such portion of the value as shall be represented by the portion of such lands lying within the boundaries of the Borough of Alburdis, Lehigh County, Pennsylvania, such apportionment of value to be evidenced by the affidavit or certificate of value hereinafter provided for, but shall in no event be less than the highest assessed valuation for local tax purposes placed upon the same in the assessment of property within the Borough of Alburdis, Lehigh County, Pennsylvania.

§ 117-29. Payment of tax.

The tax levied hereunder shall be due and payable and shall be paid by the grantor or transferor named in the instrument of conveyance at the time of delivery of the said instrument of transfer.

§ 117-30. Statement of consideration for transfer.

Every instrument of conveyance effecting a transfer of title of real property or interest therein located in the Borough of Alburdis shall set forth as a part of said instrument the full, complete and actual consideration for the transfer of real property described therein, or shall be accompanied by a certificate of any attorney at law or an affidavit executed by a responsible person connected with the transaction showing such connection and setting forth the true, full, complete and actual value thereof and, if the privilege of making such a transfer is not taxable hereunder, the facts by reason of which such nontaxability exists.

§ 117-31. Evidence of payment.

The payment of the tax imposed by this Article shall be evidenced by the affixing of a documentary stamp or stamps to every instrument or deed of conveyance by the person making, executing, delivering or presenting for recording such document,

and the Treasurer of the Borough of Alburdis or his agent using or affixing such stamps shall indelibly write thereon the initials of his name and the date of payment.

§ 117-32. Enforcement.

The Treasurer of the Borough of Alburdis or his agent, for the time the tax is due and payable, is hereby charged with the enforcement of the provisions of this Article and is hereby authorized and empowered to prescribe, adopt and enforce rules and regulations relating to the registration and notation of such transactions and the payment and receipt of such taxes and any other matter pertaining to the administration and enforcement of the provisions of this Article.

§ 117-33. Collection of tax; commission.

The Recorder of Deeds of Lehigh County or any of his deputies shall be the agent of the Treasurer of the Borough of Alburdis for the collection of the tax herein imposed by virtue of this Article at the time any deed, as hereinbefore defined, is presented for recording in the office of the Recorder of Deeds in and for Lehigh County, and said Recorder of Deeds shall receive a commission of two per centum (2%) upon the amount of tax collected by him or any of his deputies by virtue of this Article, which said per centum shall be deducted before remitting monthly to the Treasurer of the Borough of Alburdis his statement of taxes collected under and by virtue of this Article.

§ 117-34. Interest on late payment; lien for tax.

All taxes imposed by this Article which are not paid when due shall bear interest at the rate of one-half of one percent ($\frac{1}{2}$ of 1%) per month until paid. The tax, when due and unpaid, shall become a lien on the real property or interest in real property which is described in the deed or instrument of conveyance on which this tax is imposed, and shall be collected as other debts of like character are collected. The Solicitor of said Borough of Alburdis

is authorized to file a municipal lien or tax claim in the Court of Common Pleas of Lehigh County for the collection of any unpaid tax under this Article.

§ 117-35. Violations and penalties.¹³

Any person who shall fail, neglect or refuse to comply with any of the terms of this Article or any regulation or requirement pursuant thereto and authorized thereby shall, in addition to other penalties provided by law, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for a period not to exceed thirty (30) days.

§ 117-36. Statutory authority.

This Article is enacted under the authority of the Act of June 25, 1947, P.L. 1145, and its amendments.¹⁴

§ 117-37. When effective; continuance.

This Article shall become effective on the first day of July 1976 and shall remain in force and effect thereafter until repealed.

ARTICLE IV

Earned Income Tax

[Adopted 3-7-66 as Ord. No. 121, approved 3-7-66]

§ 117-38. Definitions and usage.

A. Definitions. The definitions contained in the Local Tax Enabling Act of Subdivision I, Definitions, of 53 P.S. § 6913, earned income taxes, are hereby adopted by reference as the definitions applicable to this Article.¹⁵

¹³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

¹⁴ Editor's Note: Currently, see the Local Tax Enabling Act, 53 P.S. § 6901 et seq.

¹⁵ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Note that the statutory authority for the enactment of this Article was cited in the enacting clause. The current statutory authority is the Local Tax Enabling Act, 53 P.S. § 6901 et seq.

- B. Usage. Personal pronouns shall include the singular as well as the plural number and the male, neuter and female genders.

§ 117-39. Imposition of tax.¹⁶

- A. A tax for general revenue purposes of one percent (1%) is hereby imposed on the following:
- (1) Salaries, wages, commissions and other compensation earned on and after January 1 of the current year by individual residents of the Borough of Alburtis.
 - (2) 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.
 - (3) Net profits earned on and after January 1 of the current year by residents of the Borough of Alburtis.
 - (4) Net profits earned on and after January 1 of the current year in the Borough of Alburtis by nonresidents of the Borough of Alburtis.
- B. The tax levied under Subsection A(1) and (2) herein 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 Subsection A(3) and (4) herein shall relate to and be imposed on the net profits of any business, profession or other activity carried on by any person or persons.
- C. 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 Article.

¹⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

D. The tax levied by this Article 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.

§ 117-40. Declaration and payment of tax.¹⁷

A. Net profits.

- (1) 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, 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 Article 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 Alburdis one-fourth ($\frac{1}{4}$) of the estimated tax shown as due thereon, and such taxpayer shall thereafter pay one-fourth ($\frac{1}{4}$) of the estimated tax in each of three (3) installments, as follows: one (1) installment on or before June 15 and 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.
- (2) 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

¹⁷ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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 the foregoing Sub-section A(1). 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.

- (3) 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 hereinabove required shall thereafter either reasonably expect additional net profits not previously declared or find that he has overestimated his net profits.
- (4) On or before April 15 of the succeeding year, every taxpayer who has earned taxable net profits 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 the provisions of this section 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 Article 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.

- (5) 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.

B. Salaries, wages, commissions and other compensation.

- (1) 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 § 117-41 relating to the collection at source 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 § 117-41, the estimated amount of tax imposed by this Article that will not be deducted therefrom pursuant to § 117-41 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 Article, 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.
- (2) 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 § 117-41 relating to the

collection at source, 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 § 117-41 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 the immediately foregoing Subsection B(1). The taxpayer making the declaration shall, at the time of filing thereof, pay to the Borough of Alburdis 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.

- (3) 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.
- (4) On or before April 15 of the succeeding year, every taxpayer who has received taxable salaries, wages, commissions and other compensation 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 this section, if any, and the amount, if any, of tax thereon that has been withheld pursuant to the provisions of § 117-41 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.

§ 117-41. Collection at source.¹⁸

- A. Every person within the Borough of Alburdis 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 Article 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 Alburdis the amount of taxes deducted for the preceding quarter ending March 31, June 30, September 30 and December 31 of the current year, respectively. 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.) per month is deducted.
- B. On or before January 31 of the succeeding year, every such employer shall file with the Income Tax Officer, on forms prescribed by the Income Tax Officer:
- (1) 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

¹⁸ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

imposed by this Article, the total amount of tax deducted and the total amount paid to the Borough of Alburtis 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) 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 Article, 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.
- C. 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.
- D. 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 Article relating to the filing of declarations and returns.
- E. 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.

§ 117-42. Powers and duties of Income Tax Officer.

- A. The Income Tax Officer is hereby designated receiver of the taxes imposed by this Article. 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 Article, 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 Article. 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. The Income Tax Officer is hereby charged with the administration and enforcement of the provisions of this Article 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 Article, 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 Article.
- C. 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. Any information gained by the Income Tax Officer, his agents or by any other official, agent or employee of the

Borough of Alburdis as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Article shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this Article or as otherwise provided by law.

- E. Any person aggrieved by any action of the Income Tax Officer shall have the right of appeal as provided by law.

§ 117-43. 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 Article and imposed by such subdivision under authority of the Act of 1947, P.L. 1145, as amended.¹⁹

§ 117-44. Suit for collection of tax.

- A. The Income Tax Officer, through the Borough Solicitor, may sue in the name of the Borough of Alburdis for the recovery of taxes due and unpaid under this Article.
- B. Any suit brought to recover the tax imposed by this Article 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 Article.
 - (2) In the case of a false or fraudulent declaration or return with the intent to evade the tax.

¹⁹ Editor's Note: Currently, see 53 P.S. § 6901 et seq.

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

§ 117-45. Interest and penalties.

If for any reason the tax is not paid when due, interest at the rate of six percent (6%) per annum on the amount of said tax and an additional penalty of one-half of one percent ($\frac{1}{2}$ of 1%) 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 herein imposed.

§ 117-46. Payment; 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.

§ 117-47. Applicability.

A. The tax imposed by this Article shall not apply:

- (1) 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.
- (2) 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.

- B. This section 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 § 117-41.

§ 117-48. Violations and penalties.

- A. 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 Article, shall, upon conviction thereof before a District Justice, be sentenced to pay a fine of not more than five hundred dollars (\$500.) 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.²⁰
- B. Any person who, except as permitted by the provisions of § 117-42D, divulges any information which is confidential under the provisions of said Subsection D, shall, upon conviction thereof before a District Justice, be sentenced to pay a fine of not more than five hundred dollars (\$500.) 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.²¹
- C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Article.
- D. The failure of any person to receive or procure the forms required for making any declaration or return required by this Article shall not excuse him from making such declaration or return.

²⁰ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

²¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 117-49. When effective; continuance.²²

This Article 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.

²² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.