

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 420

(Duly Adopted January 28, 2004)

AN ORDINANCE AMENDING CHAPTER 83 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO PER CAPITA TAX) TO REFLECT THE LONG-STANDING COLLECTION OF THE TAX BY A BOROUGH EMPLOYEE RATHER THAN THE ELECTED REAL PROPERTY TAX COLLECTOR; PROVIDING THAT BILLS ARE MAILED BY FEBRUARY 1, AND DUE ON MARCH 31, WITH A TWO PERCENT (2%) DISCOUNT IF PAID BY THE LAST DAY OF FEBRUARY, AND WITH A TEN PERCENT (10%) LATE PENALTY IF PAID LATE BUT BY APRIL 30, AND AN ADDITIONAL LATE PENALTY OF ONE PERCENT (1%) PER MONTH FOR EACH MONTH OR FRACTION THEREAFTER UNTIL PAID; BUT MAKING NO CHANGE IN THE RATE OF TAXATION (\$10.00 PER YEAR).

WHEREAS, Borough Council has enacted and maintained a per capita tax under the authority of the Local Tax Enabling Act, 53 PA. STAT. ANN. § 6901 *et seq.*, since 1966, under ordinances codified to Chapter 83 of the Alburdis Codified Ordinances; and

WHEREAS, Council desires that the Borough's per capita tax ordinance be revised as set forth below, without any change in the rate of taxation (\$10.00 per person per year); and

WHEREAS, on January 7, 14, and 21, 2004, the Borough published a public notice in the *East Penn Press*, a newspaper of general circulation in the Borough of Alburdis, of its intention to consider and adopt on this Ordinance on January 28, 2004. The notice stated the substantial nature of the tax, the reason which, in the judgment of the Borough officials, necessitates the imposition of the tax, and the amount of revenue estimated to be derived from the tax; and

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburdis, Lehigh County, Pennsylvania, as follows:

SECTION 1. Article II of Chapter 83 of the Codified Ordinances (relating to Per Capita Tax—Imposition of Tax) is amended by adding the following new § 83-202:

§ 83-202 Tax Also Imposed by East Penn School District.

It is the intent of this Chapter that the entire burden of the tax imposed herein on a person shall not exceed the limitations prescribed in the Local Tax Enabling Act, 53 PA. STAT. ANN. § 6901 *et seq.*, so that if the East Penn School District shall impose or hereafter shall impose a per capita tax on the same person, then the tax levied by the Borough under the authority of that Act shall, during the time such duplication of the tax exists, be one-half (1/2) of the maximum rate permitted by law, and such one-half (1/2) rate shall become effective without any action on the part of the Borough; *provided*, however, that the Borough and the East Penn School District may agree that, instead of limiting their respective rates to one-half (1/2) of the maximum rate permitted by law, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.

SECTION 2. Article III of Chapter 83 of the Codified Ordinances (relating to Per Capita Tax—Tax Collector) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 83-301 ~~Collection by Tax Collector~~ Definition.

~~The tax imposed under this Chapter 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, 72 PA. STAT. ANN. § 5511.1 *et seq.*~~ For purposes of this Chapter, the term “Tax Collector” shall mean the person designed by Council to collect the tax imposed under this Chapter. In

the absence of any specific designation, the Borough clerk/accountant shall be the Tax Collector. After any tax under this Chapter shall be due and unpaid for a period of at least nine (9) months, the Tax Collector may delegate his/her duties and authority to collect such delinquent tax to a collection agency approved by Council.

§ 83-302 Bond.

The Tax Collector shall give such bond secured and conditioned for the collection and payment of such taxes under this Chapter as provided by law for other Borough taxes required by Council, at the expense of the Borough.

§ 83-303 Warrant for Collection of Tax Audit.

~~The entry of the per capita tax in the tax duplicate to the Tax Collector shall constitute his warrant for the collection of the per capita tax levied and assessed under this Chapter. The books, accounts, and records of the Tax Collector shall be audited, adjusted, and settled in the manner prescribed by law for the auditing, adjusting, and settling of accounts of persons receiving or expending funds of the Borough (other than taxes on earned income).~~

§ 83-304 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, 72 PA. STAT. ANN. § 5511.1 *et seq.*, which compensation shall be the same as fixed from time to time by the Borough of Albury for the collection of other Borough taxes.~~

§ 83-305 Powers and Duties.

~~It is the intent of this Chapter 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, 72 PA. STAT. ANN. § 5511.1
et seq

SECTION 3. Article IV of Chapter 83 of the Codified Ordinances (relating to Per Capita Tax—Administration) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 83-401 ~~Notice to Taxpayers~~ Tax Bills; Due Date.

(a) **Bills.** 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, 72 PA. STAT. ANN. § 5511.1 *et seq.* The Tax Collector shall send tax bills to each person liable for the payment of the tax imposed under this Chapter on or before February 1 of each year. Failure to receive a bill from the Tax Collector shall not relieve any person of his obligation to pay the tax due under this Chapter.

(b) **Due Date.** The tax due under this Chapter for any particular calendar year shall be paid (received by the Tax Collector) on or before March 31 of that year. In the case of any person who becomes a resident of the Borough after February 1 of a given year, the tax for that year shall be paid within sixty (60) calendar days after the person becomes a resident of the Borough.

§ 83-402 ~~Addition of Names to Tax Duplicate~~ Discount for Early Payment.

~~In case the Tax Collector or a Deputy Tax Collector shall at any time find within the Borough of Alburytis 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 to the Borough of Alburytis, 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. A discount of two percent (2%) shall be deducted from the amount of tax due under this Chapter if the tax is paid and received by the Tax Collector on or before the last day of February of the year for which it is due. (In the case of a person who becomes a resident of the Borough after February 1 of a given year, the discount shall be granted for payment received within thirty (30) calendar days after the person becomes a resident of the Borough.)~~

§ 83-403 Collection by ~~Distrain~~ Distress and Sale.

~~The Tax Collector shall be and is hereby empowered with the authority to collect the per capita tax by distress and sell all goods and chattels of the taxpayer, as provided by the Local Tax Collection Law of 1945, as amended and supplemented, 72 PA. STAT. ANN. § 5511.1 *et seq.* In case of the neglect or refusal of any person to make payment of the amount of any tax due by him under this Chapter, the Tax Collector shall have power, after two (2) months from the date of the tax bill, to levy the amount of such tax, any penalty due thereon, and costs (not exceeding costs and charges allowed constables for similar services), by distress and sale of the goods and chattels of such delinquent, wherever situate or found, upon giving at least ten (10) days' public notice of such sale, by posting ten (10) written or printed notices, and by one advertisement in a newspaper of general circulation published in Lehigh County. No failure to demand or collect any taxes by distress and sale of goods and chattels shall invalidate any return made, or lien filed for nonpayment of taxes, or any tax sale for the collection of taxes.~~

§ 83-404 Collection from Employer of Taxpayer or Spouse.

(a) In General. The Tax Collector shall have the power and authority to demand, receive, and collect per capita taxes from corporations, political subdivisions, associations, companies, firms, or individuals employing persons owing delinquent per capita taxes, or whose spouse owes delinquent per capita taxes, or if in possession of unpaid commis-

sions or earnings belonging to any person owing delinquent per capita taxes or whose spouse owes delinquent per capita taxes, upon the presentation of written notice and demand certifying that the information contained therein is true and correct and containing the name of the taxable or spouse thereof and the amount of tax due. Upon the 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 Alburdis~~ within sixty (60) days after such notice shall have been given. If the employer is the Commonwealth of Pennsylvania, or any of its boards, authorities, agencies, or commissions, the provisions of 53 PA. STAT. ANN. § 6920 shall apply.

(b) Maximum Deduction. No more than ten percent (10%) of the wages, commissions, or earnings of the delinquent taxpayer or spouse thereof may be deducted at any one time for delinquent taxes.

(c) Employer Administrative Expenses. 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.

(d) Default by Employer. 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, or that are withheld and not paid over, together with a penalty of ten percent (10%) added thereto, which amount may be recovered by a civil action in a suit to be instituted by the Tax Collector on behalf of the Borough of ~~Alburdis~~.

(e) Collection Against Spouse. The Tax Collector shall not proceed against a spouse or his employer until he has pursued collection

remedies against the delinquent taxpayer and his employer under this Section.

(f) Prior Notice to Taxpayer. At least fifteen (15) days prior to the presentation of a written notice to an employer under subsection (a), the Tax Collector shall notify the taxpayer owing the delinquent tax by registered or certified mail that a written notice and demand shall be presented to his employer unless such tax is paid. The return receipt card for certified or registered mail shall be marked delivered to addressee only, and the cost of notification by certified or registered mail shall be added to the costs for collecting taxes.

§ 83-405 Record of Collections; Payment to Treasurer.

The Tax Collector shall keep a correct account of all per capita taxes collected by authority of this Chapter-, including ~~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 Alburdis by a separate statement ~~at the same time as other taxes are remitted to the Borough of Alburdis.~~

SECTION 4. Article V of Chapter 83 of the Codified Ordinances (relating to Per Capita Tax—Penalties) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 83-501 Late Payment Penalty.

A penalty of ten percent (10%) shall be charged for all tax bills not paid ~~within sixty (60) days from the date of billing~~ by the due date but which are paid and received by the Tax Collector within thirty (30) calendar days after the due date. An additional penalty of one percent (1%) ~~per for each month or fraction thereafter~~ shall be chargeable ~~after the expiration of ninety (90) days without payment, the total penalty charges not to~~

exceed thirteen percent (13%) charged until the tax is paid and received by the Tax Collector.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Al-
burtis, this 28th day of January, 2004, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURTIS

Steven R. Hill, President

Attest:

Melanie Hansen, Secretary

AND NOW, this 28th day of January, 2004, the above Ordinance is hereby AP-
PROVED.

Russell J. Afflerbach, Mayor