
Chapter 84 — Local Services Tax

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Article I — Title, Authority, and Duration

§ 84-101 Short Title.

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

§ 84-102 Authority.

This Chapter is enacted under the authority granted by the Local Tax Enabling Act, 53 PA. STAT. ANN. § 6924.101 *et seq.*

§ 84-103 Duration.

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

Article II — Definitions

§ 84-201 In General.

For purposes of this Chapter, the terms defined in the remaining Sections of this Article II shall have the meanings indicated, whether with or without initial capital letters, unless the context in which they are used clearly indicates a different meaning.

§ 84-201.1 Earned Income and Net Profits.

The term “earned income and net profits” shall mean, for an individual for a given calendar year, the sum of that individual’s “earned income” within the meaning of § 80-112 (relating to Earned Income Tax—Definitions—Earned Income) and “net profits” within the meaning of § 80-118 (relating to Earned Income Tax—Definitions—Net Profits) for the given calendar year.

§ 84-202 Employer.

The term “employer” shall mean an individual, partnership, limited partnership, limited liability company, limited liability partnership, association, corporation, governmental entity, agency, or other entity that engages the services of any individual and makes payment to said individual, whether by salary, wages, commissions, fees, or otherwise. The term “employer” shall also include self-employed persons.

§ 84-203 Individual.

The term “individual” shall mean, for any given year, any person who attains or is over the age of eighteen (18) years as of January 1 of that year and is engaged in any occupation of any nature, type, or kind whatsoever within the corporate limits of the Borough of Alburty during the year, whether in the employ of another or self-employed.

§ 84-204 Occupation.

The term “occupation” shall mean any trade, profession, business, or undertaking of any kind carried on or performed within the corporate limits of the Borough of Alburty for which recompense is received, whether by means of salary, wages, commissions, or, if the individual is self-employed, by payment for services rendered.

§ 84-205 Tax Receiver.

The term “Tax Receiver” shall mean the person designated by the Borough of Alburty for the collection of local services taxes.

Article III – Imposition of Tax; Exemptions and Refunds

§ 84-301 In General.

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

§ 84-302 Exemptions.

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

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

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

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

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

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

§ 84-303 [RESERVED]

§ 84-304 Procedure to Claim Exemptions.

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

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

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

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

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

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

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

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

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

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

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

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

§ 84-305 Refunds.

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

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

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

(c) The Tax Receiver is authorized to determine eligibility for exemption and provide refunds to exempt persons. If the Tax Receiver denies a Petition for Refund, then the Petition

shall be forwarded to Council for processing in accordance with the procedures set forth in Chapter 87 (relating to Taxpayer Bill of Rights).

Article IV — Administration

§ 84-401 Collection by Employer.

(a) **In General.** Each employer engaging in business within the Borough of Alburtis (whether situated in the Borough or outside of the Borough) is hereby charged with the duty of collecting and paying over to the Borough Tax Receiver for each year the *pro rata* portion of the tax levied hereunder attributable to that payroll period upon each individual within his employ subject to said tax, as determined and calculated under the provisions of this Chapter. Each employer shall make a return and payment of said tax and is authorized to deduct said local services tax from each employee subject to the tax who is earning compensation from the employer, whether the employee is paid by salary, wage, commission, or otherwise, and whether or not all such services are performed within the Borough. The tax shall be collected from an employee subject to the tax at the time it is assessed against that employee under § 84-402 (relating to Assessment of the Tax). 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. Each employer shall remit the local services taxes required to be collected in any given calendar quarter within thirty (30) days following the end of the quarter. If an employer fails to file the return and pay the tax, whether or not the employer makes collection of the tax from the salary, wages, or commissions paid by him or her to an employee, except as provided in this Chapter, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

(b) **Limitation of Liability.** No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the Borough if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office, or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of §§ 84-304 (relating to Procedure to Claim Exemptions), 84-402 (relating to Assessment of the Tax), and 84-403 (relating to Multiple Employment), and this section, and remits the amount so withheld in accordance with subsection (a).

(c) **DCED Local Withholding Tax Register.** Notwithstanding subsection (a), no employer shall be required to withhold from the compensation of its employees any local services tax at a rate or amount in excess of that on the officially released Local Withholding Tax Register maintained by the Pennsylvania Department of Community and Economic Development under 53 PA. STAT. ANN. § 6926.351, as in effect at the time the withholding is otherwise required under this Chapter. The provisions of this subsection (c), however, shall not affect the liability of the taxpayer employee for taxes lawfully imposed under this Chapter.

§ 84-402 Assessment of the Tax.

A person subject to the local services tax imposed under this Chapter shall be assessed a *pro rata* share of the tax for a calendar year each payroll period of the calendar year in which the person is engaging in an occupation within the Borough. The *pro rata* share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax for the calendar year by the number of payroll periods established by the employer for the calendar year (with any fraction rounded down to the nearest one-hundredth of a dollar). A self employed person shall be assessed a *pro rata* share of the tax for each calendar quarter, and shall pay the tax for each quarter within thirty (30) days following the end of the quarter. Each calendar quarter shall be deemed a payroll period for self employed persons.

§ 84-403 Multiple Employment.

(a) **Tax Limitation.** No person shall be subject to the payment of the local services tax by more than one political subdivision during any given payroll period, except that a person is subject to both a local services tax imposed by a school district and a local services tax imposed by a municipality located in whole or in part within that school district. The total of all local services taxes authorized under the Local Tax Enabling Act, 53 PA. STAT. ANN. § 6924.101 *et seq.*, collected from any given person for any given calendar year shall be no more than fifty-two dollars (\$52.00), irrespective of the number of political subdivisions within which the person may be employed. The Tax Receiver shall provide a taxpayer a receipt of payment upon request by the taxpayer.

(b) **General Rule.** The situs of the local services tax shall be the place of employment determined as of the day the person first becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:

(1) First, the political subdivision in which the person maintains the person's principal office or is principally employed;

(2) Second, the political subdivision in which the person resides and works, if such a tax is levied by that political subdivision;

(3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

(c) **Employer Withholding.** In the case of concurrent employment, an employer shall refrain from withholding the local services tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the local services tax withheld, and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two (2) weeks of its occurrence. This information shall be attached to an exemption certificate as provided under § 84-304, and a

duplicate original of the exemption certificate and supporting documentation shall be filed with the Tax Receiver.

§ 84-404 Duties of Tax Receiver.

(a) It shall be the duty of the Borough Tax Receiver to collect and receive the tax imposed by this Chapter and to keep full and accurate records.

(b) The Borough Tax Receiver is hereby charged with the administration and enforcement of the provisions of this Chapter 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 to appeal in accordance with the provisions of the Local Taxpayers Bill of Rights Act, 53 PA. CONS. STAT. §§ 8421-8438, as supplemented by the rules, regulations, and procedures set forth in Chapter 87 (relating to Taxpayer Bill of Rights) and by § 84-305 (relating to Refunds).

(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, or if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Tax Receiver the means, facilities, and opportunity for such examination.

§ 84-405 Collection of Delinquent Taxes.

The Tax Receiver is hereby authorized to proceed to collect delinquencies in the taxes imposed under this Chapter, including penalties and interest, in accordance with the procedures provided by law.

§ 84-406 Restricted Use of Tax Revenues.

Effective January 1, 2008, the Borough may only use the funds derived from the local services tax imposed under this Chapter for the following purposes:

(a) emergency services, which shall include emergency medical services, police services, and/or fire services;

(b) road construction and/or maintenance;

(c) reduction of property taxes; and/or

(d) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 PA. CONS. STAT. Chapter 85, Subchapter F (relating to homestead property exclusion). In the event the Borough decides to implement a homestead and farmstead exclusion under this subsection (d), the Borough shall comply with the requirements of 53 PA. STAT. ANN. § 6922.6(b).

The Borough shall use no less than twenty-five percent (25%) of the funds derived from the local services tax for emergency services under subsection (a).

Article V — Violations, Interest, and Penalties

§ 84-501 Late Payment Penalty, Interest, and Costs.

If for any reason the tax imposed under this Chapter is not paid when due, a penalty in the amount of five percent (5.0%) of the total amount of overdue tax shall be added, together with interest at the rate of six percent (6.0%) per annum on the unpaid amount from the due date of the tax until payment is made. Where suit is brought for the recovery of any tax imposed under this Chapter or other appropriate remedy is undertaken, the person liable for the tax shall, in addition, be liable for the costs of collection.

§ 84-502 Violations and Penalties.

(a) **Civil Penalty.** Whoever makes any false or untrue statement in any return required by this Chapter, 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 Chapter, shall be subject to a civil penalty of Three Hundred Dollars (\$300.00).

(b) **Initial Determination of Violation.** Council hereby delegates the initial determination of violations under this Section to the Tax Receiver. The Tax Receiver shall serve notice of the violation(s) upon the person determined to have violated this Section in person or by first class U.S. mail addressed to that person at his/her last known address. The notice shall include a description of the violation(s), the provision(s) of the Codified Ordinances violated (*i.e.* section, subsection, paragraph, etc.), the penalty imposed for each violation, and the time for payment prior to the commencement of a civil enforcement proceeding. Service shall be complete on the date of in-person service or the date of mailing.

(c) **Civil Enforcement Proceeding.** When the penalty imposed for a violation(s) of this Section is not voluntarily paid to the Borough within fifteen (15) calendar days after service of the violation notice under subsection (b), the Tax Receiver shall initiate a civil enforcement proceeding in the name of the Borough before a magisterial district judge. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. Any person found to have violated this Section in the civil enforcement proceeding shall be assessed court costs and reasonable attorney fees incurred by the Borough in the proceedings, in addition to the penalty provided.

(d) **Separate Offenses.** Each violation of a separate clause of subsection (a) shall constitute a separate offense.

Appendix

¶ 84-A Disposition of Ordinance 125.

<u>Ordinance 125</u>	<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ I (intro)	§ 117-14 (intro)	§ 84-201
§ I(a)	§ 117-14 (individual)	§ 84-203
§ I(b)	§ 117-14 (occupation)	§ 84-204
§ I(c)	§ 117-14 (employer)	§ 84-202
§ I(d)	§ 117-14 (tax receiver)	§ 84-205
§ II	§ 117-15	§ 84-301
§ III	§ 117-16	§ 84-301
§ IV	§ 117-17	§§ 84-301, 84-501
§ V	§ 117-18	§ 84-401
§ VI	§ 117-19	§ 84-403
§ VII	§ 117-20	§ 84-402
§ VII [<i>sic</i> VIII]	§ 117-21	§ 84-404
§ IX	§ 117-22	§ 84-405
§ X	§ 117-23	§ 84-502
§ XI	§ 117-24	§ 84-102
§ XII	§ 117-25	§ 84-103

¶ 84-B Disposition of 1981 Code, Chapter 117, Article II.

<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ 117-14 (intro)	§ 84-201
§ 117-14 (employer)	§ 84-202
§ 117-14 (individual)	§ 84-203
§ 117-14 (occupation)	§ 84-204
§ 117-14 (tax receiver)	§ 84-205
§ 117-15	§ 84-301
§ 117-16	§ 84-301
§ 117-17	§§ 84-301, 84-501
§ 117-18	§ 84-401
§ 117-19	§ 84-403
§ 117-20	§ 84-402
§ 117-21	§ 84-404
§ 117-22	§ 84-405
§ 117-23	§ 84-502
§ 117-24	§ 84-102
§ 117-25	§ 84-103

¶ 84-C Source Ordinances.

The following ordinances are the source of the text in this Chapter 84. This list does not include the ordinances listed in ¶ 84-D which confirm the tax for a particular year.

Ordinance 125	11-23-1966
Ordinance 215	11-11-1981
Ordinance 415	10-29-2003
Ordinance 431	12-29-2005
Ordinance 467	12-26-2007
Ordinance 471	01-30-2008
Ordinance 512	11-26-2013
Ordinance 518	03-12-2014

¶ 84-D 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
2004	Ordinance 418	12-29-2003

2005	Ordinance 431	12-29-2004
2006	Ordinance 442	12-28-2005
2007	Ordinance 452	12-27-2006
2008	Ordinance 468	12-26-2007
2009	Ordinance 475	12-29-2008
2010	Ordinance 486	12-30-2009
2011	Ordinance 492	12-29-2010
2012	Ordinance 500	12-28-2011
2013	Ordinance 508	12-26-2012
2014	Ordinance 514	12-23-2013
2015	Ordinance 523	12-29-2014
2016	Ordinance 532	12-30-2015
2017	Ordinance 535	12-28-2016
2018	Ordinance 542	12-27-2017
2019	Ordinance 552	12-26-2018
2020	Ordinance 559	12-23-2019
2021	Ordinance 564	12-30-2020
2022	Ordinance 569	12-29-2021