

Chapter 120

TAXATION

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[HISTORY: Adopted by Borough Council as noted; updated through September 2022.]

ARTICLE I
Amusement Tax

[Adopted by Ord. No. 85-5, as amended through 2010]

§ 120-1. Purpose.

Providing for the levy and collection of a tax, for general borough purposes, under the authority of the laws of the Commonwealth of Pennsylvania, upon the privilege of using for profit, within the Borough of Delmont, certain machines or devices for amusement, entertainment and/or the rendition of music which are operated by the insertion of a coin, slug, token, plate, disc or key; providing for the collection of such tax and prescribing penalties. (Approximately \$1,000 to be collected annually.) The Borough of Delmont hereby ordains, under the Pennsylvania Statutory Authority, "The Local Tax Enabling Act," 53 P.S. §§ 6902 and 6905.

§ 120-2. Definitions; word usage.

A. Unless otherwise herein expressly stated, the following terms shall have, for the purpose of this article, the meanings hereby respectively indicated:

DEVICE – Any jukebox or mechanical amusement device for the use of which for profit, a tax is levied under this article.

JUKEBOX – Any music vending machine, contrivance or device which, upon the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening, operates or may be operated for the emission of song, music or similar amusement.

MECHANICAL AMUSEMENT DEVICE – Any device other than a jukebox which, upon the insertion of a coin, slug, token, plate or disc, may be operated for use as a game (including video games or electrical games), entertainment or amusement, whether or not registering a score and whether or not a prize is offered. Such term shall not include any gambling device or any mechanism that has been judicially determined to be a gambling device.

PERSON – Any natural person, association, co-partnership, firm or corporation.

- B. Singular vs. plural. In this article, the singular shall include the plural and the masculine shall include the feminine and the neuter.

§ 120-3. Enactment of tax.

There is hereby imposed a tax, for general borough purposes to generate needed revenues, upon the privilege of using for profit, within the Borough of Delmont, any jukebox or mechanical amusement device, as herein defined. Such tax shall be payable by the person owning and/or operating the establishment in which such device is installed for use. Such tax shall be payable at the following rate: On each machine or mechanical amusement device, \$100 for the calendar year or any portion thereof; on each jukebox, \$100 for the calendar year or any portion thereof.

§ 120-4. Payment dates.

The tax imposed under this article shall be payable to the Borough Secretary, on or before the 15th day of April of each year. No deduction or refund of any tax payable under this article shall be granted in the case of any tax payable for less than a full calendar year, or in case of any device destroyed, stolen, sold or otherwise disposed of or transferred after the payment of such tax; provided, however, that in the case of the substitution of any device by another device in the same class, the use of which is taxable under this article, ½ of the current tax rate tax shall be paid, provided that the total number of devices of the same class in use upon the premises remains no greater than that upon which such tax was paid.

§ 120-5. Administration.

- A. The Borough Secretary shall procure, at the expense of the borough, a sufficient number of certificates, upon each of which the following information shall be printed or inserted in ink or by typewriter:
1. The name of the borough.
 2. The number of the certificate.
 3. The name and address of the person paying the tax.
 4. The year for which the tax shall have been paid.
 5. The date on which such tax shall have been paid.
 6. The type of device for which the tax shall have been paid.
 7. The amount of tax paid.
 8. The serial number and manufacturer of the machine/equipment.

- B. Whenever any tax shall have been paid under this article, the Borough Secretary shall prepare in duplicate a certificate as herein prescribed. The original of such certificate, to which the borough seal shall be affixed, shall be given to the person paying such tax, and the duplicate shall be kept on file by the Borough Secretary. The Borough Secretary shall also procure and give to each person paying such tax a seal to be affixed to each device for the use of which such tax shall have been paid. Such seal shall indicate the year for which such tax shall have been paid, the type of device and the certificate number.
- C. In case of the loss, defacement or destruction of any original certificate or seal, the person to whom such certificate or seal was issued shall apply to the Borough Secretary, who may issue a new certificate or seal in replacement thereof, upon payment of a fee of \$5, and who shall amend the duplicate of the certificate first issued in case that a new certificate has been issued.
- D. In case of the removal of any establishment, in which any device for the use of which a tax shall have been paid under this article, to another location in the borough or in case of a change in the identity of the person operating or owning any such establishment, the person operating such establishment shall report such fact within five days of such change in location or personnel, and the Secretary shall immediately amend the certificate and duplicate certificate.
- E. Before the removal of any device from any establishment, the person operating such establishment shall remove the seal issued under this article from such device. Such seal may be affixed to any other device of the same class used in such establishment during the current year.

§ 120-6. Late payment penalty.

If any tax levied in pursuance of this article shall not be paid when due, a penalty of 10% of the amount of tax due and unpaid shall be added thereto.

§ 120-7. Confidentiality.

Any information gained by the Borough Secretary or any other official or agent of the borough as a result of any returns, investigations or verifications required or authorized by this article shall be confidential, except for official purposes, and except in accordance with proper judicial order, or as otherwise provided by law. Any disclosure of any information contrary to the provisions of this section shall constitute a violation of this article.

§ 120-8. Enforcement expenses.

All taxes imposed by this article, together with all penalties, interest and costs, shall be recoverable by the Borough Solicitor as debts recoverable by law.

§ 120-9. Proceeds application.

All taxes, interest and penalties collected or recovered by the Borough Secretary or any other borough officer or person for or on behalf of the borough shall be paid into the borough treasury as general revenue to be used for general revenue purposes.

§ 120-10. Enforcement; violations and penalties.

Any person who shall be convicted before any District Justice of the borough for violating or failing to carry out any of the provisions or requirements of this article or of neglecting, failing or refusing to furnish complete and correct returns or to pay over any tax levied by this article at the time required, or of knowingly making any incomplete, false or fraudulent return, or payment of the whole or any part of the tax imposed under this article shall be liable to a fine or penalty not exceeding \$300 for each and every offense, and the costs of prosecution thereof; and, in default of payment of any such fine and costs, then imprisonment in the county jail for not more than 30 days and/or confiscation of the machines or devices, provided that such fine or penalty shall be in addition to any other penalty imposed by any other section of this article.

§ 120-11. Effective date.

This article shall go into effect on the first day of January 1986 and shall be effective each year without reenactment unless the tax rate changes.

ARTICLE II
Per Capita Tax
[Adopted by Ord. No. 86-8, as amended through 2001]

§ 120-12. Title.

This article shall be known as the “Borough of Delmont Per Capita Tax.”

§ 120-13. Authority.

The authority for the enactment of this Tax Ordinance is based upon The Local Tax Enabling Act, Act 511 of 1965, December 31, P.L. 1257, as amended (53 P.S. § 6901, et seq.).

§ 120-14. Definitions.

(Reserved)

§ 120-15. Imposition of tax.

An annual per capita tax of \$5 for the general borough purposes is hereby levied and assessed upon each resident and inhabitant of the borough over the age of 18 years old.

§ 120-16. Exempt parties.

- A. There shall be an exemption granted from this tax stated herein and imposed to any person whose total income, from all sources, was less than \$3,200 in the year when the tax is due and payable. This may be documented by a sworn statement before a notary public setting forth the basis upon the exemption should be provided. The sworn statement should be provided to the tax collecting agency on behalf of the borough. Further documentation relating to the Internal Revenue Service documents and the past tax year records must be provided with each sworn statement on a year by year basis.
- B. All persons who will be over the age of 65 shall be exempt from the per capita tax herein imposed.

§ 120-17. Collection of tax.

The per capita tax shall be collected by the Tax Collector as designated by the Borough of Delmont in the manner prescribed by The Local Tax Collection Enabling Act of 1965, as amended and supplemented. Said Tax Collector shall exercise all the powers and shall have all the duties provided therein, including those powers and duties specifically set forth in The Local Tax Enabling Act.

§ 120-18. Taxing period.

- A. All existing residents. The taxing period for all persons shall be January 1 through December 31 of each year.
- B. New residents. Taxing period for new residents shall begin within 30 days of any person becoming a resident within the Borough of Delmont for the year when residency is established.
- C. As to Subsections A and B, all payments will be made for the tax period due on or before April 30.

§ 120-19. Repealer; continuation.

- A. Nothing contained in this article shall be construed to empower the borough to collect and levy a tax not within the taxing power granted to the borough by the Commonwealth of Pennsylvania, United States Statutes and the Federal and State Constitutions.
- B. If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of any of the provisions specifically stated in Subsection A as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

- C. All ordinances or parts of ordinances and all resolutions or parts of resolutions inconsistent with this article are hereby repealed, with the exception that this article shall be a continuation of the tax, interest and penalty levied and imposed by prior ordinances and resolutions of the borough to the extent that such tax, interest and penalty as of the effective date of this article shall remain unpaid and/or uncollected. It is the intention of the Borough Council that this article shall constitute a continuation of the imposition and levying of the residents tax/per capita tax upon residents of the borough either by prior ordinance and resolutions of the borough or under this article.

§ 120-20. Violations and penalties.

Any person who shall violate any portion of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300 and costs of prosecution and/or undergo imprisonment for not more than 30 days.

§ 120-21. Effective date.

This article shall be effective beginning on January 1, 1987, providing there is no judicial determination due to formal proceedings initiated within 30 days of the date of passage. This article will continue in force on a year-by-year basis without further reenactment until specifically repealed.

ARTICLE III
Real Estate Transfer Tax
[Adopted by Ord. No. 86-11, as amended through 2010]

§ 120-22. Title.

This article shall be known as the “Realty Transfer Tax Ordinance of the Borough of Delmont.”

§ 120-23. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Borough of Delmont, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place as authorized by Article XI-D, Local Real Estate Transfer Tax, 72 P.S. § 8101-D et seq.

§ 120-24. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ASSOCIATION – A partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent’s estate.

CORPORATION – A corporation, joint-stock association, business trust or banking institution which is organized under the laws of this commonwealth, the United States or any other state, territory, foreign country or dependency.

DOCUMENT – Any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments or like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. “Document” shall also include a declaration of acquisition required to be presented for recording under § 120-23 of this article.

FAMILY FARM CORPORATION – A corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business or agriculture shall not be deemed to include:

- A. Recreational activities, such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
- B. The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;
- C. Fur farming;
- D. Stockyard and slaughterhouse operations; or
- E. Manufacturing or processing operations of any kind.

MEMBERS OF THE SAME FAMILY – Any individual, such individual’s brothers and sisters, the brothers and sisters of such individual’s parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood.

PERSON – Every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term “person” as applied to associations shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

REAL ESTATE:

- A. All lands, tenements or hereditaments within this Borough of Delmont, including without limitation buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.
- B. A condominium unit.
- C. A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

REAL ESTATE COMPANY – A corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, 90% or more of the ownership interest in which is held by 35 or fewer persons and which:

- A. Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or
- B. Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

TITLE TO REAL ESTATE:

- A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including without limitation an estate in fee simple, life estate or perpetual leasehold; or
- B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, including without limitation a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

TRANSACTION – The making, executing, delivering, accepting or presenting for recording of a document.

VALUE:

- A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is

assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate, provided that where such documents shall set forth a nominal consideration, the “value” thereof shall be determined from the price set forth in or actual consideration for the contract of sale;

- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations;
- C. In the case of an easement or other interest in real estate the value of which is not determinable under Subsection A or B, the actual monetary worth of such interest; or
- D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

§ 120-25. Imposition of tax; interest.

- A. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction, or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.
- B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Recorder/other designee, whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
- C. It is the intent of this article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in The Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. § 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer,

then the tax levied by the Borough of Delmont under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be $\frac{1}{2}$ of the rate, and such $\frac{1}{2}$ rate shall become effective without any action on the part of the Borough of Delmont; provided, however, that the Borough of Delmont and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to $\frac{1}{2}$ of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under The Local Tax Enabling Act.

- D. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due shall be added and collected.

§ 120-26. Exempt parties.

The United States, the commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

§ 120-27. Excluded transactions.

- A. The tax imposed by this article shall not be imposed upon:

1. A transfer to the commonwealth or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property fine adjustments, provided said reconveyance is made within one year from the date of condemnation.
2. A document which the Borough of Delmont is prohibited from taxing under the Constitution or statutes of the United States.
3. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at Sheriff sale or Tax Claim Bureau sale.
4. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
5. A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

6. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.
7. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
8. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
9. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
10. A transfer for no or nominal actual consideration from trustee to successor trustee.
11. A transfer for no or nominal actual consideration between principal and agent or straw party; or from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this article. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.
12. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the Department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article.

13. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.
14. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt or the grantee or a transfer to a nonprofit industrial development agency or authority.
15. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and the agency or authority has the full ownership interest in the real estate transferred.
16. A transfer by a mortgagor to the holder of a bona fide mortgage in default **in lieu** of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
17. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
18. A transfer to a conservancy which possesses a tax exempt status pursuant to the applicable provisions of the Internal Revenue Code of 1954 and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
19. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
20. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
21. A transaction wherein the tax due is \$1 or less.
22. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

- B. In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this article.

§ 120-28. Documents relating to associations or corporations and members, partners, stockholders or shareholders thereof.

Except as otherwise provided in § 120-29, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

§ 120-29. Acquired company.

- A. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three years.
- B. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this article.
- C. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

§ 120-30. Credits against tax.

- A. Where there is a transfer of a residential property by a licensed real estate broker, which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.

- B. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
- C. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
- D. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
- E. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount or tax due, no refund or carry-over credit shall be allowed.

§ 120-31. Extension of lease.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

§ 120-32. Proceeds of judicial sale.

The tax herein imposed shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made except the state realty transfer tax, and the Sheriff, or other officer, conducting said sale shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

§ 120-33. Duties of Recorder of Deeds.

- A. As provided in 16 P.S. § 11011-6, as amended, the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to the Borough of Delmont based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Borough of Delmont.
- B. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

- C. On or before the 10th of each month, the Recorder shall pay over to the Borough of Delmont all local realty transfer taxes collected, less 2% for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The two percent commission shall be paid to the county.
- D. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only when both the state and local amount and a rerecording or recording fee has been tendered.

§ 120-34. Statement of value.

Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this subsection shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article.

§ 120-35. Civil penalties.

- A. If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
- B. In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

§ 120-36. Lien.

The tax imposed by this article shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Borough of Delmont, which lands, tenements, hereditaments, or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this article, said lien to begin at the time when the tax under this article is due and payable, and continue

until discharge by payment, or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Westmoreland County, in accordance with the provisions of the Municipal Claims and Tax Liens Act of 1923, 53 P.S. § 7101 et seq., as amended.

§ 120-37. Enforcement.

All taxes imposed by this article, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

§ 120-38. Regulations.

The Recorder of Deeds is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. § 8101-C et seq. are incorporated into and made a part of this article.

§ 120-39. Continuation clause.

All ordinances and all resolutions or parts of resolutions inconsistent with this article are hereby repealed, with the exception that this article shall be a continuation of the taxes, interest and penalties levied and imposed by prior ordinances and resolutions of the borough to the extent that such taxes, interest and penalties as of the effective date of this article remain unpaid and/or uncollected. It is the intention of the Borough Council that this article shall constitute a continuation of the imposition and levying of the real estate transfer tax upon residents of the borough, either by prior ordinances and resolutions of the borough, or under this article.

§ 120-40. Effective date.

This article shall be effective on January 1, 1987, provided no formal proceedings are initiated within 30 days of December 30, 1986, challenging this article, and shall remain in effect from year to year unless specifically repealed or as reenactment is required by law.

ARTICLE IV

Realty Tax

[Adopted by Ord. No. 93-6, as amended through 2010)

§ 120-41. Title.

This article shall be known as the “Realty Tax Ordinance of the Borough of Delmont.”

§ 120-42. Authority.

The authority for the enactment of this article is based upon The Local Tax Enabling Act, specifically set forth in 53 P.S. § 6901 et seq., as amended.

§ 120-43. Definitions.

(Reserved)

§ 120-44. Imposition of tax.

All property within the Borough of Delmont is subject to taxation for borough purposes, beginning the fiscal year of 2010 at the sum of 18.0 mills on each dollar of the assessed value based on a one-hundred-percent evaluation as established by the Westmoreland County Tax Assessment Agency. The tax shall apply to all property located within the borough.

§ 120-45. Liens/penalties.

- A. Tax imposed by this article shall become a lien upon the land, tenements, hereditaments or other interests lying therein, wholly or in part within the boundaries of the Borough of Delmont. Said liens shall become effective as of the date that the tax is due and payable and shall continue until discharge by payment or in accordance with the laws set forth specifically by the Commonwealth of Pennsylvania or the County of Westmoreland.

- B. All taxpayers who fail to make payment of any such tax as charged against their property or them within four months after the date of the notice for the same shall be charged a penalty of 10% per annum, which penalty shall be added to the taxes by the Tax Collector and shall be collected by him or as provided by law.

§ 120-46. Enforcement.

The borough, the Borough Solicitor or the Tax Collector for the Borough of Delmont is empowered to take all the necessary actions permitted by law as to effectuate the collection of the taxes passed by this article;

§ 120-47. Effective date.

This article shall be effective on January 1, 1994, provided there is no judicial determination due to formal proceedings initiated within 30 days of the date of passage, and shall remain in effect unless specifically repealed, unless otherwise required by statute.

ARTICLE V
Wage Tax
[Adopted by Ord. No. 95-1, as amended through 2010]

§ 120-48. Title.

This article shall be known as the “Wage Tax Ordinance of the Borough of Delmont.”

§ 120-49. Authority of enactment.

This article is enacted under the authority of The Local Tax Enabling Act, Act 511 of 1965, December 31, P.L. 1257, as amended.

§ 120-50. Definitions.

Unless otherwise expressly stated, the following terms shall have, for the purposes of this article, the meanings herein indicated:

ASSOCIATION – See § 120-24, but includes private trusts or decedents’ estates.

BUSINESS – Any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association or other entity.

COMPENSATION or COMPENSATION PAID or COMPENSATION EARNED – All salaries, wages, commissions, bonuses, incentive payments, ordinary vacation or severance pay, rents, mortgage interest, 401K payments and/or other forms of compensation or remuneration. Exclusions shall be periodic payments for sick or disability benefits, payments commonly recognized as old age benefits, retirement pay or retirement pensions, payments made under the Workmen’s Compensation Act, payments made under the Unemployment Compensation Act, wages or compensation paid by the United States of America or the Commonwealth of Pennsylvania to any person for active service in the Armed Forces of the United States or the commonwealth, or any bonus for such service, and dividends and royalties.

CORPORATION – See § 120-24.

EMPLOYER – Any individual, partnership, association, corporation, governmental body or unit or agency, or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis.

INCOME TAX ADMINISTRATOR – The person empowered by the Borough Council to administer the provisions of this article; also known as the “Borough Tax Collector.”

NET PROFITS – The net gain from the operation of a business, profession or enterprise, after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used and without deduction of taxes based on income.

NONRESIDENT – A person/individual, partnership, association, corporation or other entity domiciled outside the Borough of Delmont.

PERSON – See § 120-24.

RESIDENT – An individual, partnership, association, corporation or any other entity domiciled in the Borough of Delmont.

TAXPAYER – A person, whether an individual, partnership, association, or any other entity, required hereunder to file a return on earnings or net profits or to pay a tax thereon.

TAXABLE PERIOD – The period beginning January 1 and ending on the 31st day of December.

OTHER ACTIVITIES – All activities or income generated from any source derived.

§120-51. Imposition of tax.

An annual tax for general revenue purposes of 1% (or ½% if another taxing body uses the same tax method) is hereby imposed on:

- A. Salaries, wages, commissions and other compensation earned or derived by residents of the Borough of Delmont during the taxable period.
- B. Salaries, wages, commissions and other compensation earned by nonresidents of the Borough of Delmont for work done or services performed or rendered in the Borough of Delmont during the taxable period.
- C. The net profits of businesses, professions or other activities conducted by residents of the Borough of Delmont during the taxable period.
- D. The net profits of businesses, professions or other activities conducted in the Borough of Delmont by nonresidents of said borough during the taxable period.
- E. The tax levied under Subsections A and B herein shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer, or on his behalf, to any person who is employed by or renders services to him. The tax levied under Subsections C and D herein shall relate to and be imposed upon the net profits of any business, profession or enterprise carried on by any person, as owner or proprietor, either individually or in association with some other person or persons.

- F. Such taxes shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation and the net profits of businesses, professions or other activities earned during the taxable period.

§ 120-52. Returns and payment of tax.

- A. Each person whose earnings or profits are subject to the tax imposed by this article shall make and file with the Income Tax Administrator/Tax Collector a tax return showing his or her net and gross income on a form furnished by and obtained from said Income Tax Administrator/Tax Collector, setting forth the actual amount of salaries, wages, commission and other compensation or net profits expected to be earned by him during the taxable period and subject to the said tax.
- B. The person making the official return shall, at the time of the filing thereof, pay to the Income Tax Administrator/Tax Collector the actual or last year's amount of tax shown as due thereon; provided, however, that the taxpayer shall have the right to pay the actual tax or the tax amount based on last year's income as shown on the official return in four installments to be filed by April 15, July 15, October 15 and January 15. Any taxpayer filing said estimate of income may use as his estimate based upon the preceding year's income. Provided that where any portion of the tax due shall have been deducted at the source and shall have been paid to the Income Tax Administrator/Tax Collector by the persons making the deductions, credit for the amount so paid shall be deducted from the amount shown to be due, and only the balance, if any, shall be due and payable at the time of the filing of the official return, or as hereinabove provided. Provided further, that the Income Tax Administrator/Tax Collector is authorized to provide by regulation that the official return of any employer or employers showing amount of tax deducted by him or them from the salaries, wages or commissions of any employee and paid by him or them to the Income Tax Administrator/Tax Collector shall be accepted as the official return required of any employee whose sole income subject to the tax under this article is such salaries, wages or commissions.
 - 1. Any amounts as it pertains to tax due from a taxpayer or an amount due to the taxpayer from the borough shall be deemed not payable for as to either entity for any amounts that may total less than \$1 of gross tax due to or from either entity. The taxpayer may request the refund be sent back to him or her with a written request made to the municipality.
- C. As an alternative to the estimates set out above, a taxpayer, all of whose taxable earned income is not derived from employment with an employer who deducts the amount of tax and makes return thereof under the terms of this article, may make quarterly return by filing a statement of his actual earnings or net profits during the preceding quarter and remitting therewith the appropriate amount of tax thereon.

- D. It shall be the duty of each taxpayer making quarterly payments or annual payments to file a borough final summary or reconciliation form on or before April 15; a complete return of his annual income for the previous taxable year period and pay the balance of tax due thereon or make demand for refund of overpayment as the case may be.

§ 120-53. Collection at source.

- A. Every employer within the Borough of Delmont, who employs one or more persons subject to the payment of said tax, on salary, wage, commission or other basis, shall deduct at the time of the payment thereof the tax of 1% (or ½ % if another taxing body uses the same taxing method) from all salaries, wages, commissions or other compensation due by said employer to the employee and shall, on or before the 30th day of April of each year, and at least quarterly thereafter, make a return and pay to the Income Tax Administrator/Tax Collector the amount of tax so deducted.
- B. Said return shall be on a form or forms furnished by or obtainable from the Income Tax Administrator/Tax Collector and shall set forth the total amount of salaries, wages, commissions or other compensation earned during such preceding months by employees, together with such other pertinent information as the Income Tax Administrator/Tax Collector may require. Each such employer shall furnish unto the Income Tax Administrator/Tax Collector, on or before the 31st day of January, a complete and legible copy of a form similar to Form W-2 of the Internal Revenue Service of the United States Treasury Department for each employee from whom any amount has been withheld for the payment of tax under the terms of this article, setting forth the following information:
 - 1. Full name and residence address of individual employee.
 - 2. His or her social security number.
 - 3. Total wages paid before any deductions to said employee for the period beginning January 1 and ending December 31.
 - 4. Beginning and separation dates of anyone whose employment commenced or terminated during said period.
 - 5. Name and address of employer.
- C. Any employee taxpayer who is employed by an employer who is not within the Borough of Delmont may consent to said employer's deducting and withholding his tax from his wages, in which case, said nonresident employer, if he so agrees with the employee taxpayer, shall make the returns and pay the tax and do other things prescribed by this article to be done by resident employers. However, should an employee taxpayer fail to pay his tax or file a return, the Tax Collector shall direct the taxpayer's employer to make the wage tax withholding with the making of quarterly payments.

- D. The failure or omission by any employer either residing within or outside of the Borough of Delmont to make such return and/or pay such tax shall not relieve the employee from the payment of such tax and the compliance with such regulations with respect to making returns and payments thereof as may be fixed in this article or established by the Income Tax Administrator/Tax Collector.

§ 120-54. Duties of Collector.

It shall be the duty of the Income Tax Administrator/Tax Collector to collect and receive the tax imposed by this article and, in addition to keeping the records now required by law or ordinance, to keep a record showing the amount received by him from each taxpayer and the date of such receipt.

§ 120-55. Enforcement; rules and regulations; inquisitorial powers of the Tax Administrator/Tax Collector.

- A. The Income Tax Administrator/Tax Collector is hereby charged with the enforcement of the provisions of this article and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this article, including provision for the reexamination and correction of returns, payments alleged or found to be incorrect or as to which an overpayment or underpayment is claimed or found to have occurred or nonpayment.
- B. The Income Tax Administrator/Tax Collector is hereby authorized to examine the books, papers and records of any employer or supposed employer, or of any taxpayer or supposed taxpayer, in order to verify the accuracy of any return made or, if no return was made, to ascertain the tax imposed by this article. Every such employer or supposed employer or taxpayer or supposed taxpayer is hereby directed and required to give to the Income Tax Administrator/Tax Collector for said purpose the means, facilities and opportunities for such examination and investigation as are hereby authorized, and is hereby authorized to examine any person under oath concerning any income which has or should have been returned for taxation, and to this end may compel the production of books, papers and records and the attendance before him of all persons, whether as parties or witnesses, whom he believes to have knowledge of such income.
- C. The Income Tax Administrator/Tax Collector is hereby empowered to direct employers of employee taxpayers to withhold the wage tax if the employee or employer fails to file said returns or make the tax payment.

§ 120-56. Interest and penalties.

All taxes imposed by this article remaining unpaid after they become due shall bear interest in addition to the amount of the unpaid tax at the rate of $\frac{1}{2}$ of 1% per month, and the person upon whom said taxes are imposed shall be further liable for a penalty of $\frac{1}{2}$ of 1% of the amount of the unpaid tax for each month or fraction of a month of nonpayment.

§ 120-57. Collection of unpaid taxes.

- A. In the event suit is brought against any delinquent party, to each delinquent earned income tax assessment, levy or obligation owed to the Borough of Delmont, there shall be added such attorneys' fees, charges and expenses as may be incurred in the delinquent collection process. Such additional charges shall be collected in addition to all interest and penalties as may be allowed by law or set forth herein.
- B. Such additional fees, charges and expenses shall be reasonable and the same shall be established from time to time by a resolution of Borough Council, a true and correct copy of which shall be maintained in the offices of the borough and its Delinquent Tax Collector. Said schedule of fees is hereby deemed to be reasonable, fair and necessary in order to allow the borough to collect all sums due and to impose the cost of delinquent collection upon the offending party.
- C. Any person or entity empowered to collect sums on behalf of the Borough of Delmont shall add such fees as are incurred in the collection process to the extent allowed or designated on the resolution establishing said fees as may be in effect at the time of collection. Such sums collected pursuant to this section shall be in addition to any tax penalty, interest or other costs already part of the delinquent account or assessment. The sums collected pursuant to this section shall be remitted to the taxing authority in the same manner as the underlying tax obligation.

§ 120-58. Violations and penalties.

- A. Any person convicted before any District Justice or Court of Common Pleas of violating any of the provisions or requirements of this article or who shall fail, neglect or refuse to make any return required by this article, or any taxpayer who shall fail, neglect or refuse to pay the tax, penalties and interest imposed by this article, or any person who shall refuse to permit the Income Tax Administrator/Tax Collector to examine his books, records and papers, or who shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid the payment of the whole or any part of the tax shall be subject to a fine, penalty not less than \$100; costs for each such offense; all costs and expenses incurred, including attorney's fees and administrative cost and actual expenses; and/or to undergo imprisonment for not more than 30 days.
- B. Such fine or penalty shall be in addition to any other penalty imposed by any other section of this article and shall not relieve the taxpayer of liability for payment of such unpaid taxes, interest and penalties.

- C. The failure of any employer or any taxpayer to receive or procure a return form shall not excuse him from making a return.

§ 120-59. Applicability.

This article shall not apply to any person or property as to whom or which it is beyond the legal power of the Borough of Delmont to impose the tax or duties herein provided for.

§ 120-60. Repealer; continuation.

All ordinance or parts of ordinances inconsistent with this article are hereby repealed with the exception that this article shall be a continuation of the taxes, interest and penalties levied and imposed by prior ordinances and resolutions of the Borough of Delmont to the extent that the same as of the effective date of this article remain unpaid and/or uncollected. It is the intention of the Borough Council of the Borough of Delmont that this article shall constitute a continuation of the imposition and levying of the earned income and net profits tax upon residents and nonresidents of the borough, either by prior ordinances and resolutions of the Borough of Delmont or as of the effective date of this article, under this article.

§ 120-61. Effective date.

This article shall become effective on January 1, 1995.

ARTICLE VI
LOCAL SERVICES TAX
[Adopted 12/11/07 per Ord. No. 2007-2]

§120-62. Title.

This part shall be known and may be cited as the Borough of Delmont Local Services Tax Ordinance.

§120-63. Authority.

This part is enacted under the authority of the Local Tax Enabling Act, as amended by Act No.7 of 2007.

§120-64. Purpose.

The purpose of this Part is to provide revenue for police, fire and emergency services; road construction and maintenance; the reduction of property taxes and for such other purposes as may be specified for such tax from time to time by the laws of the Commonwealth of Pennsylvania.

§120-65. Definitions.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

POLITICAL SUBDIVISION – The area within the corporate limits of the Borough of Delmont.

COLLECTOR – The person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.

DCED – The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

EARNED INCOME – “Compensation” as determined under section 303 of the Act of March 4, 1971 (P.L. 6, No.2), known as the “Tax Reform Code of 1971,” and regulations in 61 Pa. Code Pt. I Subpt. B Art. V (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.” Any housing allowance provided to a member of the clergy shall not be taxable as earned income.

EMPLOYER – An individual, partnership, association, limited liability corporation, limited liability partnership, 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.

HE, HIS or HIM – Indicates the singular and plural number, as well as male, female and neuter genders.

INDIVIDUAL – Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.

NET PROFITS – The net income from the operation of a business, profession, or other activity, (except from Corporations), determined under section 303 of the Act of March 4, 1971 (P.L. 6, No.2), known as the “Tax Reform Code of 1971,” and regulations in 61 Pa. Code Pt. I Subpt. B Art. V (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:

1. Any interest generated from monetary accounts or investment instrument of the farming business;
2. Any gain on the sale of farming machinery;
3. Any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and
4. 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, earned on or performed within the corporate limits of the political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.

RESERVE COMPONENT OF THE ARMED FORCES – 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.

TAX – The local services tax at the rate fixed in §120-66 of this article.

TAX YEAR – The period from January 1 until December 31 in any year; a calendar year.

§120-66. Levy of Tax.

The Borough of Delmont hereby levies and imposes on every individual engaging in an occupation with the jurisdictional limits of the Borough of Delmont a tax in the amount of \$52.00 per annum, beginning the first day of January 2008 and continuing on a calendar basis annually thereafter, until modified or repealed by subsequent ordinance. This tax may be used solely for the following purposes as the same may be allocated by the Borough of Delmont from time to time: (1) emergency services, which shall include emergency medical services, police services and/or fire services; (2) road construction and/or maintenance; (3) reduction of property taxes; or (4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa. C.S. Ch. 85, Subch. F (relating to homestead property exclusion). The political subdivision shall use no less than twenty-five (25%) percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than \$52.00 on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed.

§120-67. Exemptions and Refunds.

- A. Exemption. Any person whose total earned income and net profits from all sources within the political subdivision is less than Twelve Thousand (\$12,000.00) Dollars for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

1. 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 disability.
2. 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 the purposes of this subparagraph, "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.

B. Procedure to Claim Exemption.

1. A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand (\$12,000) dollars in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by clause (2), 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. 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. The exemption certificate form shall be the uniform form provided by the political subdivision.
2. With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of twelve thousand (\$12,000) dollars in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the municipality in an amount equal to or in excess of twelve thousand (\$12,000) dollars in that calendar year, an employer shall withhold the local services tax from the person under clause (3) hereof.

3. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this article.
 4. Except as provided in clause (2), 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.
- C. Refunds. The Borough of Delmont, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed One (\$1.00) Dollar. The Borough of Delmont or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

§120-68. Duty of Employers to Collect.

- A. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.
- B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. 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 levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer

shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Paragraph D of this Section. For purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.

- C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
- D. In the case of concurrent employment, an employer shall refrain from withholding the 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 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 weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.
- E. The tax shall be no more than fifty-two (\$52) dollars on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision 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 Paragraph B of §120-67 of this article and this section and remits the amount so withheld in accordance with this article.
- G. Employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.

§120-69. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

§120-70. Dates for determining tax liability and payment.

Each employer shall use his employment and payroll records from the first day of January to March 31 each year for determining the number of employees from whom said tax shall be deducted and

paid over to the collector on or before April 30 of the same calendar year. Supplemental reports shall be made by each employer on July 30, October 30 and January 31 for new employees as reflected on his employment and payroll records from April 1 to June 30, July 1 to September 30 and October 1 to December 31, and payments on these supplemental reports shall be made on July 30, October 30 and January 31, respectively.

§120-71. Self-employed individuals.

Each self-employed individual who has Earned Income or realizes Net Profit, as those terms are defined herein, within the political subdivision shall be required to comply with this article and pay the tax due to the Collector on or before the thirtieth day following the end of each quarter.

§120-72. Individuals engaged in more than one occupation or employed in more political subdivision.

The situs of the tax shall be the place of employment on the first day the person 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:

- A. First, the political subdivision in which a person maintains his or her principal office or is principally employed;
- B. Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
- C. Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

§120-73. Nonresidents subject to tax.

All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§120-74. Administration of tax.

- A. It shall be the duty of the Collector to accept and receive payments of this tax and keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received. It shall be the duty of the Collector to accept and keep a record of the information submitted by employers relating to the number of employees subject to the tax, the number of employees exempt from the tax, the employee exemption certificates and refunds of the tax paid to individuals and employers.

- B. The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered, subject to municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and 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 Collector shall have the right to appeal to the Court of Common Pleas of Westmoreland County after exhausting any Administrative remedies, as in other cases provided.

- C. The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

§120-75. Suits for collection.

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.

- B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

§120-76. Violations and penalties.

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and, in

default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

§120-77. Interpretation.

- A. Nothing contained in this article shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

- B. If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the 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 said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

ARTICLE VII
VOLUNTEER SERVICE CREDIT PROGRAM
[Adopted 12/11/18 per Ord. No. 2018-3]

§120-78. Title.

This part shall be known and may be cited as the Borough of Delmont Volunteer Service Credit Program Ordinance.

§120-79. Authority.

This part is enacted under the authority of Act 172 of 2016 providing for incentives for municipal volunteers of fire companies and nonprofit emergency medical services agencies as now set forth in 35 Pa.C.S.A. § 79A01, et. seq.

§120-80. Definitions.

The following words and phrases when used in this ordinance shall have the meanings given to them in this section unless the context clearly indicates otherwise.

“Active Volunteer.” A volunteer for a volunteer fire company or nonprofit emergency medical service agency listed under § 120-81(C) who has complied with, and is certified under, the Volunteer Service Credit Program.

“Earned Income Tax.” A tax on earned income and net profits levied under Chapter 3 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

“Eligibility Period.” The timeframe when volunteers may earn credit under the Volunteer Service Credit Program.

“Emergency Responder.” A volunteer who responds to an emergency call with one of the entities listed under § 120-81(C).

“Emergency Response Call.” Any emergency call to which a volunteer responds, including travel directly from and to a volunteer’s home, place of business or other place where he/she shall have been when the call was received.

“Qualified Real Property.” A residential real property owned and occupied as the domicile of an active volunteer.

“Volunteer.” A member of a volunteer fire company or a nonprofit emergency medical service agency.

§120-81. Volunteer Service Credit Program.

- A. Establishment. Delmont Borough hereby establishes a Volunteer Service Credit Program. The goal of the program is to encourage membership and service in the borough’s volunteer fire companies and nonprofit emergency medical service agencies.

- B. Program Criteria. The Council hereby establishes the annual criteria that must be met to qualify for credits under the program based on the criteria set forth herein and on the criteria form attached hereto as Exhibit “A.”
 - 1. The number of emergency response calls to which a volunteer responds.
 - 2. The level of training and participation in formal training and drills for a volunteer.
 - 3. The total amount of time expended by a volunteer on administrative and other support services, including but not limited to:
 - i. fundraising,
 - ii. providing facility or equipment maintenance, and/or
 - iii. financial bookkeeping.
 - 4. The involvement in other events or projects that aid the financial viability, emergency response or operational readiness of a volunteer fire company or a nonprofit emergency medical service agency.
 - 5. The total number of years the volunteer has served.

- C. Eligible Entities. The Volunteer Service Credit Program is available to residents of the borough and who are volunteers of the following volunteer fire companies and nonprofit emergency medical service agencies that provide service to Borough:
 - 1. Delmont Volunteer Fire Department;
 - 2. Mutual Aid Ambulance Service; or
 - 3. Similar volunteer fire companies and nonprofit emergency medical service agencies in other Westmoreland County municipalities who have adopted ordinances to grant

relief under Act 172 of 2016 and which municipalities grant reciprocal tax relief to residents thereof serving as volunteers to the Delmont Volunteer Fire Department or Mutual Aid Ambulance Service.

- D. Eligibility Period. A volunteer must meet the minimum criteria, set by resolution under this section, during the eligibility period to qualify for the tax credits established under § 120-82. For 2019 and each subsequent year thereafter, the eligibility period shall run from January 1st through December 31st.
- E. Recordkeeping. The chief of each volunteer fire company or the supervisor of the nonprofit emergency medical service agency listed under § 120-81(C) shall keep specific records of each volunteer's activities in a service log to establish credits under the Volunteer Service Credit Program. Service logs shall be subject to review by the Borough Council, the State Fire Commissioner and the State Auditor General. The chief, or supervisor, shall annually transmit to the Borough a notarized eligibility list of all volunteers that have met the minimum criteria for the Volunteer Service Credit Program. The notarized eligibility list shall be transmitted to the Borough no later than November 1st of each year. The chief or supervisor shall post the notarized eligibility list in an accessible area of the volunteer agency's facilities.
- F. Application. Volunteers that have met the minimum criteria of the Volunteer Service Credit Program shall sign and submit an application for certification to their chief or supervisor. The chief or supervisor shall sign the application if the volunteer has met the minimum criteria of the Volunteer Service Credit Program, and forward it to the borough secretary. Applications shall not be accepted by the borough after April 1st of each year.
- G. Municipal Review. The borough secretary shall review the applications for credit under the Volunteer Service Credit Program and shall cross reference them with the notarized eligibility list. The Borough Council shall approve all applicants that are on the notarized eligibility list. All applicants approved by the Borough shall be issued a tax credit certificate by the Borough Secretary.
- H. Official Tax Credit Register. The Borough shall keep an official Tax Credit Register of all active volunteers that were issued tax credit certificates. The borough secretary shall issue updates, as needed, of the official Tax Credit Register to the following:
1. Borough Council;
 2. Chief of the volunteer fire company;
 3. Chief or supervisor of the nonprofit emergency medical services agency;
 4. Tax officer for the borough Tax Collection District.
- I. Injured Volunteers.
1. An emergency responder that is injured during an emergency response call may be eligible for future tax credits. The injury must have occurred while responding to, participating in, or returning from an emergency response call with one of the entities listed under § 120-81(C).

2. An injured emergency responder shall provide documentation from a licensed physician with the application required under § 120-81 stating that their injury prevents them from performing duties to qualify as an active volunteer. In such a case, the injured emergency responder shall be deemed an active volunteer for that tax year.
3. An injured emergency responder shall annually submit the application required under § 120-81, along with updated documentation from a licensed physician stating that the injury still exists and prevents them from qualifying as an active volunteer. The injured emergency responder shall again be deemed an active volunteer for that tax year. An injured emergency responder shall only be deemed an active volunteer for a maximum of five (5) consecutive tax years.

§120-82. Earned Income Tax Credit.

- A. Tax Credit. Each active volunteer who has been certified under the Borough Volunteer Service Credit Program shall be eligible to receive a tax credit of up to \$ 750.00 of the Earned Income Tax levied by the borough. When an active volunteer's earned income tax liability is less than the amount of the tax credit, the tax credit shall equal the individual's tax liability.
- B. Claim. An active volunteer with a tax credit certificate may file a claim for the tax credit on their borough earned income tax liability. When filing a final return for the preceding calendar year with the tax officer for the Delmont Borough Tax Collection District.
- C. Rejection of Tax Credit Claim.
 1. The tax officer shall reject a claim for a tax credit if the taxpayer is not on the official Tax Credit Register issued by the borough secretary.
 2. If the tax officer rejects the claim, the taxpayer shall be notified in writing of the decision. The notice shall include the reasons for the rejection and provide the method of appealing the decision pursuant to § 120-84.
 3. Taxpayers shall have 30 days to appeal the decision of the tax officer.

§120-83. Real Property Tax Credit.

- A. Tax Credit. Each active volunteer who has been certified under Borough Volunteer Service Credit Program shall be eligible to receive a real property tax credit of twenty (20%) percent of the borough tax liability on qualified real property. If the tax is paid in the penalty period, the tax credit shall only apply to the base tax year liability.
- B. Claim.
 1. An active volunteer with a tax credit certificate may file a claim for the tax credit on their qualified real property tax liability for the borough's real estate tax levy. The tax credit shall be administered as a refund by the borough treasurer. An active volunteer shall file the following with the borough secretary:

- i. A true and correct receipt from the borough real estate tax collector of the paid borough real property taxes for the tax year which the claim is being filed.
 - ii. The tax credit certificate.
 - iii. Photo identification.
 - iv. Documentation that the tax paid was for qualified real property as defined herein.
2. If the active volunteer provides all documents required under this subsection, the borough treasurer shall issue the tax refund to the active volunteer.

C. Rejection of the Tax Credit Claim.

1. The borough secretary shall reject the claim for a borough real property tax credit if the taxpayer fails to provide the documents required under subsection (B)(1) hereof.
2. If the borough secretary rejects the claim, the taxpayer shall be notified in writing of the decision. The notice shall include the reasons for the rejection and provide the method of appealing the decision pursuant to § 120-84.
3. Taxpayers shall have 30 days to appeal the decision of the borough secretary.

§120-84. Appeals.

A. Earned Income Tax Credit Appeals.

1. Any taxpayer aggrieved by a decision under § 120-82 shall have a right to appeal said decision.
2. A taxpayer shall have 30 days to appeal a decision or rejection of claim.
3. All appeals of decisions under § 120-82 shall follow the provisions of the Act of May 5, 1998, P.L.301, No. 50, known as the Local Taxpayers Bill of Rights.
4. All appeals hereunder shall be in accordance with the Act 50 Regulations as promulgated by Berkheimer pursuant to the appointment of Berkheimer as the Tax Hearing Officer pursuant to Resolution No. 2011-12, adopted December 13, 2011.

B. Real Property Tax Credit Appeals.

1. Any taxpayer aggrieved by a decision under § 120-83 shall have a right to appeal said decision.
2. A taxpayer shall have 30 days to appeal a decision or rejection of claim.
3. All appeals under § 120-83 shall follow the provisions of 2 Pa.C.S. Chapter 5, Subchapter B (relating to practice and procedure of local agencies), and 2 Pa.C.S. Chapter 7, Subchapter B (relating to judicial review of local agency action), also known as the "Local Agency Law."

§120-85. Severability.

In the event that any provision, section, sentence, clause, or part of this Ordinance is held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of the Ordinance, it being the intent of the Borough Council that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

§120-86. Effective Date.

This Ordinance shall be effective as of January 1, 2019.

ARTICLE VIII
WAIVER OF PENALTIES
[Adopted 9/13/22 per Ord. No. 2022-3]

§120-87. Purpose. To adopt regulations governing the potential waiver of any interest, fee, penalty or charge accruing to and in excess of the face amount of the real estate tax as provided in the real estate tax notice under certain specific circumstances.

§120-88. Waiver. The elected tax collector for the Borough of Delmont shall, for all tax years beginning and after January 1, 2023, grant a waiver of additional charges for real estate taxes if the taxpayer does all of the following:

- A. Provides a waiver request of additional charges, in a form to be established by the Pennsylvania Department of Community and Economic Development, to the tax collector in possession of the claim within twelve (12) months of a qualifying event;
- B. Attests that a notice was not received;
- C. Provides the tax collector with a copy of the deed showing the date of real property transfer; and
- D. Provides the tax collector in possession of the claim with one of the following:
 1. A copy of the deed showing the date of real property transfer; or
 2. A copy of the title following the acquisition of a mobile or manufactured home subject to taxation as real estate showing the date of issuance or a copy of an executed lease agreement between the owner of a mobile or manufactured home and the owner of a parcel of land on which the mobile or manufactured home will be situated showing the date the lease commences; and
 3. Pays the face value amount of the tax notice for the real estate tax with the waiver request.

- E. A taxpayer granted a waiver and paying real estate tax as provided in this subsection shall not be subject to an action at law or in equity for an additional charge, and any claim existing or lien filed for an additional charge shall be deemed satisfied.

§120-89. Tax Collector Responsibility. A tax collector that accepts a waiver and payment in good faith in accordance with the provisions herein shall not be personally liable for any amount due or arising from the real estate tax that is the subject in the waiver.

§120-90. Definitions. As used in this section, the following words and phrases shall have the meanings given to them herein unless the context clearly indicates otherwise:

- A. The term “additional charge” shall mean any interest, fee, penalty or charge accruing to and in excess of the face amount of the real estate tax as provided in the real estate tax notice.
- B. The term “qualifying event” shall mean:
 - 1. For the purposes of real property, the date of transfer of ownership;
 - 2. For the manufactured or mobile homes, the date of transfer of ownership or the date a lease agreement commences for the original location or relocation of a manufactured or mobile home on a parcel of land not owned by the owner of the manufactured or mobile home. The term does not include the renewal of a lease for the same location.
 - 3. The term “tax collector” shall mean the elected tax collector for Delmont Borough, any authorized or designated delinquent tax collector, the Westmoreland County Tax Claim Bureau, or any alternative collector of taxes as provided for in the act of July 7, 1947 (P.L.1368, No.542), known as the “Real Estate Tax Sale Law,” an employee, agent or assignee authorized to collect the tax, a purchaser of claim for the tax or any other person authorized by law or contract to secure collection of, or take any action at law or in equity against the person or property of the taxpayer for the real estate tax or amounts, liens or claims derived from the real estate tax.

EXHIBIT "A" TO SECTION 120-81

Volunteer Tax Credit Program

Residents who are members at the Delmont Volunteer Fire Department can qualify for an annual tax credit provided they earn a minimum 50 points from the qualification areas below. Then Chief and President of the department will sign off to verify the member listed below has completed those qualifications.

Member Information

Name: _____

Address: _____

Phone number: _____

Email: _____

Status of Member: Active/Full Company/Associate Life Member

Operational

Serves as (Five points per position, maximum ten points)

- | | |
|---|--|
| <input type="checkbox"/> Chief Line Officer | <input type="checkbox"/> Engineer |
| <input type="checkbox"/> Line Officer | <input type="checkbox"/> Assistan Engineer |
| <input type="checkbox"/> Safety Officer | <input type="checkbox"/> Driver |
| <input type="checkbox"/> Medical or EMS Officer | <input type="checkbox"/> Training Officer |

Total Points _____

Certification & training (One Point per certification hour, maximum of twenty five points)

- | | |
|---|--|
| <input type="checkbox"/> Essentials of Firefighting | <input type="checkbox"/> Basic Vehicle Rescue Technician |
| <input type="checkbox"/> Firefighter I | <input type="checkbox"/> Paramedic |
| <input type="checkbox"/> Firefighter II | <input type="checkbox"/> Emergency Medical Technician |
| <input type="checkbox"/> Officer I | <input type="checkbox"/> Emergency Medical Responder |
| <input type="checkbox"/> Officer II | <input type="checkbox"/> Hazardous Materials Technician |
| <input type="checkbox"/> Pump Operator | <input type="checkbox"/> Ladder Operator |
| <input type="checkbox"/> Other Training _____ | |

Total Points _____

Call Response

- Respond to 60% or more calls/responses (40 points)
 Respond to 50% to 59% calls/responses (30 points)
 Respond to 40% to 49% calls/responses (20 points)
 Respond to 15% to 39% calls/responses (10 points)

Authorized Verification

By signing below, I affirm that the individual listed on this document has met the minimum points as identified on the form.

Name: _____

Department: _____

Title: _____

Signature: _____