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As required by Pennsylvania law, a Notice stating that the Borough Council would be considering an EIT ordinance was published in the Delaware County Daily Times. The Notice stated that the ordinance would be considered at the December 19th meeting of Council. However, the Pennsylvania Department of Community and Economic Development (“DCED”) requires that any municipality enacting an EIT inform DCED of the enactment of any EIT ordinance by December 6th, so that any such municipality may be included in a master list of all Pennsylvania municipalities that assess an EIT. This master list is used by payroll companies for purposes of withholding EIT from employees’ paycheck. At Council’s December 5th meeting, there was a vote of 4-2 in favor of the ordinance, which was for purposes of notifying DCED. That vote was NOT effective for purposes of enacting the EIT ordinance, since the Notice stated that the vote would be held on December 19th. At the December 19th meeting, the EIT ordinance was voted upon, and it was approved by a vote of 4-3; however, the Mayor vetoed the EIT ordinance, and five (5) votes of Council are needed to override the veto, and accordingly, the EIT ordinance was NOT enacted.

Unfortunately, news of the veto of the EIT ordinance did not reach DCED in time for DCED to remove the Borough from its master list of all Pennsylvania municipalities that assess an EIT as the first payroll period of 2019 commenced. DCED has now confirmed that it removed the Borough from its list, and the Borough will ensure that any EIT erroneously withheld from paychecks of Borough residents or employees shall be refunded to them. The Borough apologizes for the error.

Robert W. Scott
Borough Solicitor