

Chapter 24

Taxation; Special

Part 1

Earned Income and Net Profits Tax

- §24-101. Incorporation of Statute
- §24-102. Imposition of Tax
- §24-103. Declarations, Returns and Payment of Tax
- §24-104. Collection at Source
- §24-105. Administration
- §24-106. Interest and Penalties for Late Payment
- §24-107. Penalties for Violations

Part 2

Realty Transfer Tax

- §24-201. Short Title
- §24-202. Authority
- §24-203. Definitions
- §24-204. Imposition of Tax; Interest
- §24-205. Exempt Parties
- §24-206. Excluded Transactions
- §24-207. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof
- §24-208. Acquired Company
- §24-209. Credits Against Tax
- §24-210. Extension of Lease
- §24-211. Proceeds of Judicial Sale
- §24-212. Duties of Recorder of Deeds
- §24-213. Statement of Value
- §24-214. Civil Penalties
- §24-215. Lien
- §24-216. Enforcement
- §24-217. Regulations

Part 3

Per Capita Tax

- §24-301. Tax Imposed
- §24-302. Collection of Tax
- §24-303. Tax Collector Bond
- §24-304. Warrant for Collection
- §24-305. Expense of Collection
- §24-306. Notice of Tax
- §24-307. Addition of Names to Duplicate
- §24-308. Authority to Collect

Part 4
Penalties for Delinquent Payment of Real Estate and Per Capita Taxes

§24-401. Penalty

Part 5
Coal Tax

§24-501. Imposition of Tax
§24-502. Returns
§24-503. Penalty
§24-504. Inspection of Records
§24-505. Recovery of Taxes and Penalties

Part 1**Earned Income and Net Profits Tax****§24-101. Incorporation of Statute.**

The provisions of §6913 of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 53 P.S. §6913, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, are incorporated herein by reference thereto; except to the extent that options are provided in said §6913, this Part designates the option selected, and except as and where hereinafter specifically provided otherwise.

(Ord. 2014-01, 10/2/2014)

§24-102. Imposition of Tax.

1. A tax for the general revenue purposes of 1 percent is hereby imposed on:

A. Salaries, wages, commissions and other compensation earned or paid on or after January 1, of any year by residents of the Borough.

B. The net profits earned on or after January 1 of any year, of businesses, professions or other activities conducted by such residents.

2. *Imposition of Tax on Nonresidents.* A tax for the general revenue purposes of 1 percent is hereby imposed on:

A. Salaries, wages, commissions and other compensation earned or paid on or after January 1, of any year, by nonresidents of the Borough for work done or services performed or rendered in the Borough.

B. Net profits earned on or after January 1 of any year, of businesses, professions or other activities conducted in the Borough by nonresidents.

3. The tax levied under subsections .1.A and .2.A of this Section 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 .1.B and .2.B of this Section will relate to and be imposed on 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.

(Ord. 2014-01, 10/2/2014)

§24-103. Declarations, Returns and Payment of Tax.

1. Every taxpayer whose net profits are subject to the tax imposed by this Part shall file a declaration of his [net profits for the current year and shall pay the tax due thereon in one annual installment, all as provided in §6913, III(A) (1)(i) of the Local Tax Enabling Act] or [estimated net profits for the current year and shall pay the tax due thereon in quarterly installments, all as provided in §6913, III(A) (1)(ii) of the Local Tax Enabling Act].

2. Every taxpayer whose earnings are subject to the tax imposed by this Part shall make and file final returns and pay to the officer the balance of the tax due, as

provided in §6913, III, (B), first paragraph of the Local Tax Enabling Act.

3. Every taxpayer whose earnings are not subject to collection at the source, shall make and file with the officer [quarterly returns and shall pay quarter-annually the amount of tax shown as due on such returns all as provided in §6913, III, (B) (2) of the Local Tax Enabling Act] or [annual returns and shall pay the amount of tax shown as due on such returns on or before April 15 of the year following the current year, all as provided in §6913, III(B)(1) of the Local Tax Enabling Act].

4. The officer is hereby authorized to provide by regulation, subject to the approval of the Borough Council, that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, or commissions of any employee, and paid by him or them to the officer shall be accepted as the return required of any employee whose sole income, subject to the tax or taxes under this ordinance, is such salary, wages or commissions.

(Ord. 2014-01, 10/2/2014)

§24-104. Collection at Source.

Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Borough who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall register with the officer, deduct the tax imposed by this Part on the earned income of his employee or employees and shall make and file quarterly returns and final returns and pay quarterly to the officer the amount of taxes deducted, all as provided in §6913, IV, of the Local Tax Enabling Act.

(Ord. 2014-01, 10/2/2014)

§24-105. Administration.

The earned income tax officer shall be selected from time to time by resolution of, and shall receive such compensation for his services and expenses as determined from time to time by the Borough Council. Such officer shall have the powers and duties, and shall be subject to the penalties as provided in §6913, V, VI, and VII of the Local Tax Enabling Act.

(Ord. 2014-01, 10/2/2014)

§24-106. Interest and Penalties for Late Payment.

If for any reason the tax is not paid when due, interest at the rate of 6 percent per annum on the amount of said tax, and an additional penalty of ½ percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

(Ord. 2014-01, 10/2/2014)

§24-107. Penalties for Violations.

1. Any person who fails, neglects, or refuses to make any declaration or return required by this Part, any employer who fails, neglects or refuses to register or to pay

the tax deducted from his employees, or fails, neglects, or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part, shall, upon conviction therefor before any magisterial district judge, or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and in default of payment, to be imprisoned for a period not exceeding 30 days.

2. Any person who divulges any information which is confidential under the provisions of this Part, shall, upon conviction therefor, before any magisterial district judge, or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and in default of payment, to be imprisoned for a period not exceeding 30 days.

3. The penalties imposed under this Section shall be in addition to any other penalty imposed by any other Section of this Part.

4. The failure of any person to receive or procure forms required for making the declaration or returns required by this ordinance shall not excuse him from making such declaration or return.

(Ord. 2014-01, 10/2/2014)

Part 2**Realty Transfer Tax****§24-201. Short Title.**

This Part shall be known as the “Realty Transfer Tax Ordinance of Hunker Borough.”

(*Ord. 2014-01, 10/2/2014*)

§24-202. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or an interest in real estate situated within Hunker Borough, 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.*

(*Ord. 2014-01, 10/2/2014*)

§24-203. Definitions.

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 of 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 §24-302 of this Part.

Family farm corporation—a corporation of which at least 75 percent of its assets are devoted to the business of agriculture and at least 75 percent 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 same 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.

E. Manufacturing or processing of any kind.

Family farm partnership—a partnership of which at least 75 percent of its assets are devoted to the business of agriculture and at least 75 percent of the interests in the partnership are continuously owned by members of the same family. The business of agriculture shall include the leasing to members of the same family of property which is directly and principally used for agricultural purposes. The business of 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.

E. Manufacturing or processing operations of any kind.

Living trust—any trust, other than a business trust, intended as a will substitute by the settlor which becomes effective during the lifetime of the settlor, but from which trust distributions cannot be made to any beneficiaries other than the settlor prior to the death of the settlor.

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.

Ordinary trust—any trust, other than a business trust or a living trust, which takes effect during the lifetime of the settlor and for which the trustees of the trust take title to property primarily for the purpose of protecting, managing or conserving it until distribution to the named beneficiaries of the trust. An ordinary trust does not include a trust that has an objective to carry on business and divide gains, nor does it either expressly or impliedly have any of the following features: the treatment of beneficiaries as associates, the treatment of the interests in the trust as personal property, the free transferability of beneficial interests in the trust, centralized management by the trustee or the beneficiaries, or continuity of life.

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 Hunker Borough 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 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 percent or more of the ownership interest in which is held by 35 or fewer persons and which:

A. Derives 60 percent or more of its annual gross receipts from the ownership or disposition of real estate.

B. Holds real estate, the value of which comprises 90 percent or more of the value of its entire tangible asset holding 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.

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 paragraph .A or .B, the actual monetary worth of such interest.

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 principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Ord. 2014-01, 10/2/2014)

§24-204. Imposition of Tax; Interest.

1. 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 one percent 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.

2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.

3. It is the intent of this Part 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 Hunker Borough under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate and such one-half rate shall become effective without any action on the part of Hunker Borough; provided, however, that Hunker Borough and any other political subdivision which imposes such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half 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, 53 P.S. §6901 *et seq.*

4. Any tax imposed by this Part that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923, P.L. 207, No. 153, 53 P.S. §701 *et seq.*, as amended, known as the "Municipal Claims and Tax Liens Act." The interest rate imposed shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in §806 of the Act of April 9, 1929, P.S. 343, No. 176, 72 P.S. §806, as amended, known as the "Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

5. The tax imposed under this Part and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965, P.S. 1257, No. 511, 53 P.S. §6901 *et seq.*, known as the "Local Tax Enabling Act"; provided, that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Borough, pursuant to §1102-D of the Tax Reform Code of 171, 72 P.S. §8102-D, authorizes and directs the Department of Revenue of the Commonwealth of

Pennsylvania to determine, collect and enforce the tax, interest, and penalties.
(*Ord. 2014-01, 10/2/2014*)

§24-205. Exempt Parties.

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

(*Ord. 2014-01, 10/2/2014*)

§24-206. Excluded Transactions.

The tax imposed by §24-304 shall not be imposed upon:

A. 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 line adjustments provided said reconveyance is made within 1 year from the date of condemnation.

B. A document which Hunker Borough is prohibited from taxing under the Constitution or statutes of the United States.

C. A conveyance to a municipality, borough, school district or county pursuant to acquisition by the municipality, borough, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.

D. 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.

E. A transfer or division in kind for no 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.

F. 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 1 year shall be subject to tax as if the grantor were making such transfer.

G. 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.

H. 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 that are entitled to receive the property or proceeds from the sale of the property under the trust, 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.

I. A transfer for no or nominal actual consideration to a trustee of a living trust from the settlor of the living trust. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the living trust instrument.

J. A transfer for no or nominal actual consideration from a trustee of an ordinary trust to a specifically named beneficiary that is entitled to receive the property under the recorded trust instrument or to a contingent beneficiary where the transfer of the same property would be exempt if the transfer was made by the grantor of the property into the trust to that beneficiary. However, any transfer of real estate from a living trust during the settlor's lifetime shall be considered for the purposes of this Part as if such transfer were made directly from the settlor to the grantee.

K. A transfer for no or nominal actual consideration from a trustee of a living trust after the death of the settlor of the trust or from a trustee of a trust created pursuant to the will of a decedent to a beneficiary to whom the property is devised or bequeathed.

L. A transfer for no or nominal actual consideration from the trustee of a living trust to the settlor of the living trust if such property was originally conveyed to the trustee by the settlor.

M. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.

N. A transfer for no or nominal actual consideration from trustee to successor trustee.

O. A transfer (i) for no or nominal actual consideration between principal and agent or straw party; or (ii) fruit or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part. 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 paragraph.

P. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of 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 Part.

Q. 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 2 years.

R. 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 of the grantee or a transfer to a nonprofit industrial development agency or authority.

S. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if: (i) 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 (ii) the agency or authority has the full ownership interest in the real estate transferred.

T. 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.

U. Any transfer between religious organizations or other beliefs or persons holding title for religious organization if such real estate is not being or has not been used by such transferor for Commercial purposes.

V. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1954, (68A, Stat. 3, 26 U.S.C. §501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

W. 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 percent of each class of stock thereof.

X. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.

Y. A transaction wherein the tax due is \$1 or less.

Z. Traces for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

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 Part.

(Ord. 2014-01, 10/2/2014)

§24-207. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in §24-306, 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 Part, corporations and associations are entities

separate from their members, partners, stockholders or shareholders.

(Ord. 2014-01, 10/2/2014)

§24-208. Acquired Company.

1. 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 percent or more of the total ownership interest in the company within a period of 3 years.

2. 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 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 Part.

3. 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.

(Ord. 2014-01, 10/2/2014)

§24-209. Credits Against Tax.

1. 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.

2. 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.

3. 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.

4. 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.

5. 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 carryover credit shall be allowed.

(Ord. 2014-01, 10/2/2014)

§24-210. 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.

(Ord. 2014-01, 10/2/2014)

§24-211. Proceeds of Judicial Sale.

The tax herein imposed shall be fully paid, and have priority out of the proceeds or 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.

(Ord. 2014-01, 10/2/2014)

§24-212. Duties of Recorder of Deeds.

1. As provided in 16 P.S. §11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to Hunker Borough based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from Hunker Borough.

2. 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.

3. On or before the tenth of each month, the recorder shall pay over to Hunker Borough all local realty transfer taxes collected, less 2 percent 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 2 percent commission shall be paid by the County.

4. 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 amounts and a rerecording or recording fee has been tendered.

(Ord. 2014-01, 10/2/2014)

§24-213. 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 Part. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this Section

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 Part.

(*Ord. 2014-01, 10/2/2014*)

§24-214. Civil Penalties.

1. If any part of any underpayment of tax imposed by this Part is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment.

2. In the case of failure to record a declaration required under this Part 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 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 50 percent in the aggregate.

(*Ord. 2014-01, 10/2/2014*)

§24-215. Lien.

The tax imposed by this Part 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 Hunker Borough, 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 Part said lien to begin at the time when the tax under this Part 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 Chester County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 *et seq.*, its supplements and amendments.

(*Ord. 2014-01, 10/2/2014*)

§24-216. Enforcement.

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

(*Ord. 2014-01, 10/2/2014*)

§24-217. Regulations.

The Board of Supervisors of Hunker Borough is charged with enforcement and collection of the 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 Part.

(*Ord. 2014-01, 10/2/2014*)

Part 3**Per Capita Tax****§24-301. Tax Imposed.**

A per capita tax of \$5 for general Borough purposes, is hereby levied and assessed under the authority of the Act of June 25, 1947 (Pamphlet Laws 1145) and its amendments, upon each resident or inhabitant of the Borough of Hunker over the age of 21 years, for the year 1972, which tax shall be in addition to all other taxes levied and assessed by the said Borough pursuant to any other laws of the Commonwealth of Pennsylvania.

(*Ord. 38, 12/23/1971, §1*)

§24-302. Collection of Tax.

Such tax shall be collected by the duly elected or appointed Tax Collector of the Borough of Hunker in the same manner and at the same time as other Borough taxes are collected, as provided by the Local Tax Collection Law of 1945, as amended and supplemented.

(*Ord. 38, 12/23/1971, §2*)

§24-303. Tax Collector Bond.

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

(*Ord. 38, 12/23/1971, §3*)

§24-304. Warrant for Collection.

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

(*Ord. 38, 12/23/1971, §4*)

§24-305. Expense of Collection.

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

(*Ord. 38, 12/23/1971, §5*)

§24-306. Notice of Tax.

The Tax Collector shall give notice to the taxpayers of the amount of per capita tax due under this Part, at the same time and in the same manner as provided by the Local Tax Collection Law of 1945, as amended and supplemented.

(*Ord. 38, 12/23/1971, §6*)

§24-307. Addition of Names to Duplicate.

In case the Tax Collector shall at any time find within the Borough any resident or inhabitant above the age of 21 years of age, whose name does not appear upon the tax duplicate, he shall report the name of such person forthwith to the Assessor, who shall thereupon certify the same into the Borough Council, which shall promptly certify the same to the Tax Collector reporting such name, whereupon the Tax Collector shall add such name and the assessment of this per capita tax against such person to the duplicate of the Borough of Hunker, and shall proceed to collect the same.

(Ord. 38, 12/23/1971, §7)

§24-308. Authority to Collect.

The Tax Collector shall give notice to the taxpayers, shall have the power to collect said taxes by distress, shall have the power and authority to demand and receive said tax from the employer of any person owing any per capita tax, or whose wife owes any per capita tax, shall remit such taxes to the Borough Treasurer by separate statement at the same time as other taxes are remitted to the Borough, shall allow discounts and add penalties, shall generally be subject to all the duties and shall have the rights and authority conferred upon him by the Local Tax Collection Law of 1945, as amended and supplemented. It is hereby declared to be the intent of the Borough Council, in enacting this Part to confer upon the Tax Collector, in the collection of this per capita tax, all the powers, together with all the duties and obligations to the same extent and at fully provided for in the Local Tax Collection Law of 1945, as amended and supplemented.

(Ord. 38, 12/23/1971, §8)

Part 4**Penalties for Delinquent Payment of Real Estate and Per Capita Taxes****§24-401. Penalty.**

All taxpayers who shall fail to make payment of any Borough real estate or per capita taxes charged against them or their properties for ___ months after the date of the tax notice, shall be charged a penalty of 10 percent, which penalty shall be added to the taxes by the Tax Collector and be collected by such Tax Collector.

(Res. 12/28/1981)

Part 5**Coal Tax****§24-501. Imposition of Tax.**

A tax of \$0.10 per net ton on each and every net ton of coal mined on or after the effective date hereof within the territorial limits of said Borough and a tax of \$0.10 per net ton of coal on each and every net ton of coal loaded on and after said date into railroad cars within said territorial limits is hereby levied and assessed for annual revenue purposes.

(*Ord. 15, 7/12/1948, §1*)

§24-502. Returns.

That each individual, partnership and corporation mining coal and/or loading coal into railroad cars within said territorial limits after the effective date hereof shall, on or before the tenth day of calendar month, file with the Tax Collector of said Borough a written statement showing the exact amount of coal which he, she or it mined and/or loaded into railroad cars as aforesaid during the immediately preceding calendar month, and shall, simultaneously with the filing of said statement, pay to said Tax Collector the tax or taxes hereby imposed.

(*Ord. 15, 7/12/1948, §2*)

§24-503. Penalty.

That, to all taxes due hereunder and which shall not be paid on the due date, there shall be added a penalty of 5 percent thereof or \$20, whichever amount shall be the larger, and additional penalty of $\frac{1}{2}$ of 1 percent thereof per month or fraction thereof from the due date of said tax until the date of the payment thereof.

(*Ord. 15, 7/12/1948, §3*)

§24-504. Inspection of Records.

That to insure compliance with the provisions hereof, said Tax Collector is hereby authorized and empowered to inspect and assess at any reasonable time or times either in person or by representatives the books and records of said individuals, partnerships and corporations pertaining to said mining and/or loading of coal.

(*Ord. 15, 7/12/1948, §4*)

§24-505. Recovery of Taxes and Penalties.

That the taxes and penalties hereby imposed shall be recoverable by said Borough as other taxes and penalties imposed by it are recoverable.

(*Ord. 15, 7/12/1948, §6*)

