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PART 1

EARNED INCOME AND NET PROFITS TAX

§24-101. Levy of Tax.

1. Pursuant to the authority contained in Act No. 511 of 1965, a tax for the general purposes upon salaries, wages, commissions and other compensation earned or received on and after July 1, 1996, is as follows:
 - A. One-half of 1% on all salaries, wages, commissions and other compensation earned on or after July 1, 1966, by residents of the Borough of Philipsburg.
 - B. One percent on all salaries, wages, commissions and other compensation earned on or after July 1, 1966, by nonresidents of the Borough of Philipsburg.
 - C. One-half of 1% on net profits earned on or after July 1, 1966, of businesses, professions and other activities conducted by such residents.
 - D. One percent on net profits earned on or after July 1, 1966, of businesses, professions and other activities conducted in the Borough of Philipsburg by nonresidents.
 - E. Requiring the filing of returns and the giving of information by employers and those subject to said tax, imposing upon employers the duty of collecting the tax at its source, providing for the assessment, administration, collection and enforcement of said tax and imposing penalties.
2. The taxes levied under this Section shall relate to and be imposed upon revenue or compensation paid by an employer or principal for or on his behalf to any person who is employed by or renders services to or for him. The taxes levied under this Section shall relate to and be imposed upon the net profits of any business, person, profession or enterprise carried on by any person or owner or proprietor, either individually or in association with some other person or persons.
3. Said tax shall first be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned and with respect to the net profits of businesses, professions and other activities earned during that part of the calendar year 1966, and each calendar year thereafter. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profits for the fiscal year as shall be earned from and after the first day of July, 1966. Thereafter said tax shall be levied, collected, reported and paid on a calendar year basis or as respects a business, profession or activity whose fiscal year differs from the calendar year on such fiscal year basis.

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(Ord. 576, 4/6/1966, §1)

§24-102. Definitions.

Unless otherwise expressly stated, the following terms and words shall have, for the purpose of this Part, the meaning herein indicated:

ASSOCIATION — a partnership, limited partnership or any other unincorporated group of two or more persons.

BOROUGH — said Borough of Philipsburg.

BUSINESS — an enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association or any other entity.

CORPORATION — a corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency.

CURRENT YEAR — the calendar year for which the tax is levied.

DOMICILE — the place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily "domicile," for "domicile" is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. "Domicile" is the place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME — compensation as determined under §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. Art. V (relating to personal income tax). Employee business expenses are allowable deductions as determined under Article III of the "Tax Reform Code of 1971." The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

EMPLOYER — a person, partnership, association, corporation, institution, governmental body or unit or agency or any other entity employing one or more persons for a salary, wage, commission or other compensation.

INCOME TAX OFFICER OR OFFICER — person, public employee or private agency designated by Borough Council to collect and administer the tax on earned income and net profits.

NET PROFITS — the net income from the operation of a business, profession or other activity, except corporations, determined under §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 earning from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

- A. Any interest earnings generated from any monetary accounts or investment instruments of the farming business.
- B. Any gain on the sale of farm machinery.
- C. Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes.
- D. Any gain on the sale of other capital assets of the farm.

NONRESIDENT — a person, partnership, association or other entity domiciled outside the taxing district.

PERSON OR INDIVIDUAL — a natural person.

PRECEDING YEAR — the calendar year before the current year.

RESIDENT — a person, partnership, association or other entity domiciled in the taxing district.

SUCCEEDING YEAR — the calendar year following the current year.

TAXPAYER — a person, partnership, association or any other entity, required hereunder to file a return of earned income or net profits or to pay a tax thereon.

(Ord. 576, 4/6/1966, §2; as amended by A.O.

§24-103. Income Tax Officer.

The Borough shall designate a receiver of taxes imposed by this Part. It shall be his duty to:

- A. Collect and receive the taxes, fines and penalties imposed by this Part. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.

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- B. Before entering upon his official duties he shall give and acknowledge a bond to the Borough. Such bond shall be sufficient to satisfy the requirements of the subsection.
- (1) Bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of this Commonwealth.
 - (2) Bond shall be conditioned upon the faithful discharge by the Officer, his clerks, assistants and appointees of all trust confided in him by virtue of his office, upon the just and faithful accounting or payment over, according to law, of all monies and all balances thereof paid to, received or held by him by virtue of his office and upon the delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office.
 - (3) Bond shall be taken in the name of the Borough of Philipsburg and shall be for the use of the Borough of Philipsburg and for the use of such person or persons for whom money shall be collected or received or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the principal of the bond.
 - (4) The Borough of Philipsburg may sue upon the said bond in its or his own name for its or his own use.
 - (5) Bond shall contain the name or names of the surety company or companies bound thereon. The Borough shall fix the amount of the bond at an amount equal to the maximum amount of taxes which may be in the possession of the Officer at any given time.
 - (6) The Borough of Philipsburg may, at any time, upon cause shown and due notice to the Officer and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to the Borough for the purpose of making the bond sufficient in amount, without releasing the surety or sureties first approved from any accrued liability or previous action on such bond. The Borough shall designate the custodian of the bond required to be given by the Officer.
- C. The officer charged with the administration and enforcement of the provisions of this Part is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the reexamination and correction of declarations and returns and of payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred and to make refunds in cases of overpayment, for any period of time not to exceed 6 years subsequent to the date of payment

of the sum involved and to prescribe forms necessary for the administration of this Part. No rule or regulations of any kind shall be enforceable unless it has been approved by resolution by the Borough. A copy of such rules and regulations currently in force shall be available for public inspection.

- (1) The Officer shall refund, on petition of any proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.
- (2) The Officer and agents designated by him are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the Officer reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration or return or if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the Officer reasonably believes to be an employer or taxpayer, is hereby directed and required to give to the Officer or to any agent designated by him, the means, facilities and opportunity for such examination and investigations as are hereby authorized.
- (3) Any information gained by the Officer, his agents or by any other official or agent of the taxing district, as a result of any declarations, returns, investigation, hearing or verifications required or authorized by this Part shall be confidential, except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.

- D. The Income Tax Officer shall receive such compensation for his services and expenses as determined by the Borough. In the case of a single collector established pursuant to subsection (b) of §10 of Act 511 of 1965, the taxing jurisdiction shall share in the compensation and expenses of a single officer according to the proportionate share that the total annual collections for each jurisdiction bears to the total annual collection for all political subdivisions in a single collector district, except that with the agreement of two-thirds of all participating political subdivisions, a different manner of sharing may be substituted.

(Ord. 576, 4/6/1966, §3)

§24-104. Collection at Source.

1. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation who has not previously registered shall, within 15 days after becoming an em-

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- ployer, register with the Officer his name and address and such other information as the Officer may require.
2. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation shall deduct at the time of payment thereof, the tax imposed by this Part on the earned income due to his employee or employees and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, file a return and pay to the Officer the amount of taxes deducted during the preceding 3 month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively. Such return, unless otherwise agreed upon between the Officer and employer, shall show the name and Social Security number of each such employee, the earned income of such employee during such preceding 3 month period, the tax deducted therefrom, the political subdivision imposing the tax upon such employee, the total earned income of all such employees during such preceding 3 month period and the total tax deducted therefrom and paid with the return. Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax or any part thereof or has failed to pay over the proper amount of tax to the taxing authority, may be required by the Officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the Officer on or before the last day of the month succeeding the month for which the tax was withheld.
 3. On or before February 28 of the succeeding year, every employer shall file with the Officer:
 - A. An annual return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to the Officer for the period beginning January 1 of the current year and ending December 31 of the current year.
 - B. A return withholding statement for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year setting forth the employees name, address and Social Security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, the amount of tax paid to the Officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.
 4. Every employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

5. Except as otherwise provided in §9 of Act 511 of 1965, every employer who willfully or negligently fails or omits to make deductions required by this Section shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.
6. The failure or omission of any employer to make the deductions required by this Section shall not relieve any employee from the payment of the tax or from complying with the requirements of this Part relating to the filing of declarations and returns.

(Ord. 576, 4/6/1966, §4)

§24-105. Declaration and Payment of Tax.

1. Net Profits.
 - A. Every taxpayer making net profits shall pay to the Officer an annual payment of tax due on or before April 15 of the succeeding year for the period beginning January 1 and ending December 31 of the current year or on or before April 15 of the current year make and file with the Officer on a form prescribed or approved by the Officer, a declaration of his estimated net profits during the period beginning January 1 and ending December 31 of the current year and pay to the Officer in four equal quarterly installments the tax due thereon as the first installment at the time of filing the declaration and the other installments on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.
 - B. Where the filing of a declaration and quarterly payments, any taxpayer who first anticipates any net profit after April 15 of the current year shall make an file the declaration hereinabove required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit and pay to the Officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.
 - C. Where a declaration of estimated net profits and quarterly payments of tax due on such profits, every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Officer on a form prescribed or approved by the Officer a final return showing the amount of net profits earned during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the Officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax,

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elect to make and file with the Officer, on or before January 31 of the succeeding year, the final return as hereinabove required.

- D. The Officer may be authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required anticipated additional net profits not previously declared or finds that he has overestimated his anticipated net profits.
 - E. Every taxpayer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file his return as hereinabove required and pay the tax due.
2. Earned Income. Every taxpayer, on or before April 15 of the succeeding year, make and file with the Officer on a form prescribed or approved by the Officer a final return showing the amount of earned income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
3. Every taxpayer who is employed for salary, wage, commission or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall:
- A. Make and file with the Officer, on a form prescribed or approved by the Officer, an annual return setting forth the aggregate amount of earned income not subject to withholding from him during the period beginning January 1 and ending December 31 of the current year and such other information as the Officer may require and pay to the Officer the amount of tax shown as due thereon on or before April 15 of the succeeding year.
 - B. Make and file with the Officer, on a form prescribed or approved by the Officer, a quarterly return on or before April 30 of the current year, July 31 of the current year setting forth the aggregate amount of earned income not subject to withholding by him during the 3 month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively and subject to the tax, together with such other information as the Officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the officer the amount of tax shown as due thereon.

(Ord. 576, 4/6/1966, §5)

§24-106. Suit for Collection of Tax.

1. The Officer may sue in the name of the Borough of Philipsburg for the recovery of taxes due and unpaid under this Part.
2. Any suit brought to recover the tax imposed by the Borough of Philipsburg in this Part shall be begun within 3 years after such tax is due or within 3 years after the declaration or return has been filed, whichever date is later. Provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:
 - A. Where no declaration or return was filed by any person, although a declaration or return was required to be filed by him under provisions of this Part, there shall be no limitation.
 - B. Where an examination of the declaration or return filed by any person or if other evidence relating to such declaration or return in the possession of the Officer reveals a fraudulent evasion of taxes, there shall be no limitation.
 - C. In the case of substantial understatement of tax liability of 25% or more and no fraud, suit shall be begun within 6 years.
 - D. Where any person had deducted taxes under the provisions of this Part and has failed to pay the amounts so deducted to the Officer or where any person has willfully failed or omitted to make the deductions required by this Section, there shall be no limitation.
 - E. This Section shall not be construed to limit the Borough of Philipsburg from recovering delinquent taxes by any other means provided by this Act (Act 511 of 1965).
3. The Officer may sue for recovery of an erroneous refund provided such suit is begun 2 years after making such refund, except that the suit may be brought within 5 years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

(Ord. 576, 4/6/1966, §6)

§24-107. Interest and Penalty on Unpaid Tax.

If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax and an additional penalty of 1/2 of 1% 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.

§24-108. Penalty for Violation.

1. Any person who fails, neglects or refuses to make any declaration or return required by this Part, any employer who fails, neglect 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 an incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net 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 thereof before any district justice or court of competent jurisdiction in Centre County, be sentenced to pay a fine of not more than \$500 for each offense and costs and, in default of payment of said fine and costs, 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 thereof before any district justice 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 of said fine and costs, 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 Part shall not excuse him from making such declaration or return.

(Ord. 576, 4/6/1966, §8)

§24-109. Applicability.

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

(Ord. 576, 4/6/1966, §9)

PART 2
PER CAPITA TAX

§24-201. Levy of Tax.

A per capita tax of \$20 per year be and the same is hereby levied and assessed for this year and every year thereafter upon each resident or inhabitant of the Borough of Philipsburg above the age of 18 years, which tax shall be in addition to all other taxes levied and assessed by the Borough of Philipsburg pursuant to any other laws of the Commonwealth of Pennsylvania.

(Ord. 504, 4/16/1963, §1; as amended by Ord. 770, 12/4/1972; by Ord. 888, 3/2/1981, §1; and by A.O.

§24-202. Collection by Borough Tax Collector.

Said tax shall be collected by the duly elected or appointed Tax Collector of Borough taxes for the Borough of Philipsburg in the same manner and at the same time or times as other Borough taxes are collected, as provided by the Local Tax Collection Law, Act of May 25, 1945, P.L. 1050, as amended and supplemented.

(Ord. 504, 4/16/1963, §2)

§24-203. Tax Duplicate Serves as Warrant for Collection.

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

(Ord. 504, 4/16/1963, §3)

§24-204. Expenses of Collection; Compensation of Tax Collector.

The expenses of collection and compensation of the Tax Collector shall be paid and allowed as provided by the Local Tax Collection Law, Act of May 25, 1945, P.L. 1050, as amended and supplemented, which compensation shall be the same as now authorized for the collection of other Borough taxes or as the same may be hereafter fixed, from time to time, by the Borough of Philipsburg for the collection of other Borough taxes.

(Ord. 504, 4/16/1963, §4)

§24-205. Notice to Taxpayers.

The Tax Collector shall give notice to the taxpayer at the same time and in the same manner as provided by the Local Tax Collection Law, Act of May 25, 1945, P.L. 1050, as amended and supplemented.

(Ord. 504, 4/16/1963, §5)

§24-206. Addition of Names to Duplicate.

In case the Tax Collector shall at any time find within the Borough of Philipsburg any resident or inhabitant above the age of 18 years whose name does not appear upon the tax duplicate, he shall report the name of such person forthwith to the proper assessor, who shall thereupon certify the name unto the Borough of Philipsburg, which shall promptly certify the same to the Tax Collector reporting said name, whereupon the Tax Collector shall add the name and the assessment of this per capita tax against the person to the duplicate of the Borough of Philipsburg and proceed to collect same.

(Ord. 504, 4/16/1963, §6; as amended by Ord. 770, 12/4/1972)

§24-207. Collection by Distress and Sale of Personal Property.

The Tax Collector shall be and is hereby empowered with the authority to collect said tax by distress and sell all goods and chattels of the taxpayer, as provided therefor by the Local Tax Collection Law, Act of May 25, 1945, P.L. 1050, as amended and supplemented.

(Ord. 504, 4/16/1963, §7)

§24-208. Collection from Employers.

There is hereby conferred upon the Tax Collector the power and authority to demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals employing persons owing per capita taxes or if in possession of unpaid commissions or earnings belonging to any person owing per capita taxes, upon the presentation of written notice and demand containing the name of the taxable and the amount of tax due. Upon the presentation of such written notice and demand it shall be the duty of such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees then owing or that shall within 60 days thereafter become due or from any unpaid commissions or earnings of any taxable in its or his possession or that shall within 60 days thereafter come unto its or his possession a sum sufficient to pay the respective amount of the per capita taxes and costs shown upon the written notice or demand and to pay the same to the Tax Collector of the Borough of Philipsburg within 60 days after such notice has been given. The employer shall be entitled to deduct not more than 2%

thereof for his expenses for such moneys paid over to the Tax Collector. Upon failure of such employer to make such deductions when properly notified as herein provided, such employer shall forfeit and pay the amount of such tax for each taxable whose taxes are not withheld and paid over to the Tax Collector as herein provided, which amount may be recovered by an action assumpsit in a suit to be instituted by the Tax Collector on behalf of the Borough of Philipsburg.

(Ord. 504, 4/16/1963, §8; as amended by Ord. 888, 3/2/1981, §1)

§24-209. Accounts of Taxes Collected; Return of Taxes Collected.

The Tax Collector shall keep a correct account of all per capita taxes collected by authority of this Part. He shall make the same paid on each duplicate at the name of each taxable and the date on which payment was made. The Tax Collector shall remit said taxes to the Treasurer of the Borough of Philipsburg by a separate statement at the same time as other taxes are remitted to the Borough of Philipsburg.

(Ord. 504, 4/16/1963, §9)

§24-210. Discounts and Penalties.

All taxpayers subject to payment of the per capita taxes herein levied and assessed shall be entitled to a discount of 2% of the amount of such tax upon payment of the whole amount thereof within 2 months after the date of the tax notice. All taxpayers who fail to make payment of any such taxes charged against them for a period of 4 months after the date of the tax notice shall be charged a penalty of 5%, which penalty shall be added to the taxes by the Tax Collector and be collected by him.

(Ord. 504, 4/16/1963, §10)

§24-211. Legal Authority.

This Part is enacted under the authority granted by Act of May 25, 1945, P.L. 1050 and Act of December 31, 1965, P.L. 1257.

(Ord. 504, 4/16/1963, §12; as amended by Ord. 770, 12/4/1972)

PART 3

REALTY TRANSFER TAX

A. Tax Imposed.

§24-301. Short Title.

This Part shall be known as the "Realty Transfer Tax Ordinance of the Borough of Philipsburg."

(Ord. 929, 2/8/1988)

§24-302. 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 Philipsburg, 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. 929, 2/8/1988)

§24-303. 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 therefor to the debtor, land contracts whereby the legal title does not pass 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 hereunder of this Part.

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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 member of the same family. 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.

GOVERNING BODY — the Borough Council of Philipsburg.

MEMBERS OF THE SAME FAMILY — any individual, such individual's brothers and sisters, the brothers and sisters of such individuals 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. Individual 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.

REAL ESTATE –

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

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- C. In the case of an easement or other interest in real estate, the value of which is not determinable under subsections (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. 929, 2/8/1988)

§24-304. 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 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.
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 the Borough of Philipsburg 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 the Borough of Philipsburg; provided, however, that the Borough of Philipsburg 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 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."
4. If for any reason the tax is not paid which due, interest at the rate in effect at the time the tax is due, shall be added and collected.

(Ord. 929, 2//8/1988)

§24-305. 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 Part. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

(Ord. 929, 2/8/1988)

§24-306. Excluded Transactions.

1. The tax imposed hereunder 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 the Borough of Philipsburg is prohibited from taxing under the Constitution or statutes of the United States.
 - C. 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.
 - D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previous recorded, but which does not extend or limit existing record, legal title or interest.
 - E. A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by covenants; 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 and wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother and sister or 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.

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- G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a person 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, 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 from a trustee to a beneficiary of an ordinary trust.
- J. A transfer for no or nominal actual consideration from trustee to successor trustee.
- K. A transfer for no or nominal actual consideration between principal and agent or straw party or from or to any 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 subsection.
- L. 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 Part.
- M. 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.
- N. 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 debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
- O. 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.

- P. 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.
 - Q. 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.
 - R. 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.
 - S. 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.
 - T. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
 - U. A transaction wherein the tax due is \$1 or less.
 - V. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.
2. 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. 929, 2/8/1988)

§24-307. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided herein, 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 pur-

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pose of this Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

§24-308. 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% 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 the issuance or transfer of stock 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 and Acquisition may be submitted for this purpose.

(Ord. 929, 2/8/1988)

§24-309. 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 the 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 of tax due, no refund or carryover credit shall be allowed.

(Ord. 929, 2/8/1988)

§24-310. Extension of Lease.

In determining the term of the 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. 929, 2/8/1988)

§24-311. 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.

(Ord. 929, 2/8/1988)

§24-312. 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 the Borough of Philipsburg based on a re-determination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania Realty Transfer Tax, without compensation from the Borough of Philipsburg.
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.

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3. On or before the tenth of each month, the Recorder shall pay over to the Borough of Philipsburg 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 2% commission shall be paid to the County.
4. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall record the deed or record the additional realty transfer tax form only when both the State and local amounts and the recording or rerecording fee has been tendered.

(Ord. 929, 2/8/1988)

§24-313. 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. 929, 2/8/1988)

§24-314. 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% 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% of the amount of such tax if the failure is for not more than 1 month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

(Ord. 929, 2/8/1988)

§24-315. 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 the Borough of Philipsburg, 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 line to begin at the time when the tax under this Part is due and payable and continued 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 Centre 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. 929, 2/8/1988)

§24-316. 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. 929, 2/8/1988)

§24-317. Regulations.

The President of the Borough Council of Philipsburg 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 Part.

(Ord. 929, 2/8/1988)

§24-318. Effective Date.

This Part shall be effective on February 8, 1988.

(Ord. 929, 2/8/1988)

B. Collection of Delinquent Realty Transfer Taxes.

§24-321. Administration and Collection of Tax and Penalties.

Any realty transfer tax imposed by the Borough, and all applicable interest and penalties, shall be administered, collected and enforced under the Act of December 31, 1965

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(P.L. 1257, No. 511, as amended, known as the "Local Tax Enabling Act"), provided that if the correct amount of tax is not paid by the last date prescribed for timely payment, the Borough Council of the Borough of Philipsburg, Centre County, Pennsylvania, pursuant to Section 1102-D of the Tax Reform Code of 1971 (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, at no cost to the Borough.

(Ord. 1042, 11/13/2006, §1)

§24-322. Interest on Unpaid Taxes.

Any realty transfer tax imposed by the Borough of Philipsburg and 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. § 7101, et seq.), as amended, known as the "Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the maximum amount imposed by the Municipal Claims and Tax Liens Act and the interest rate imposed upon delinquent Commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176, 72 P.S. § 806), as amended, known as the "Fiscal Code."

(Ord. 1042, 11/13/2006, §2)

PART 4

EMERGENCY AND MUNICIPAL SERVICES TAX

§24-401. Title.

This Part shall be known as the "Emergency and Municipal Services Tax Ordinance."

(Ord. 889, 5/18/1981, §2; as amended by Ord. 1036, 1/9/2006, §1; and by Ord. 1038, 1/9/2006, §1)

§24-402. Definitions.

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

BOROUGH OF PHILIPSBURG — the area within the corporate limits of the Borough of Philipsburg.

EMPLOYER — an individual, partnership, association, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including self-employed person.

FISCAL YEAR — the twelve-month period beginning January 1 and ending December 31.

HE, HIS OR THEIRS — the singular and plural as well as the male, female and neuter gender.

INDIVIDUAL — any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Borough of Philipsburg.

OCCUPATION — any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the Borough of Philipsburg for which compensation is charged or received in excess of \$2,000 whether by means of salary, wages, commissions or fees for services rendered.

TAX — the Emergency and Municipal Services Tax levied by this Part.

TAX COLLECTOR — the person appointed by the Council of Philipsburg under whose direction this tax shall be enforced.

(Ord. 889, 5/18/1981, §2; as amended by Ord. 1038, 1/9/2006, §3)

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§24-403. Levy.

The Borough of Philipsburg hereby levies and imposes on each occupation engaged in by individuals within the corporate limits of the Borough of Philipsburg, beginning the first day of January 2006, an Emergency and Municipal Services Tax. This tax in addition to all other taxes of any kind or nature heretofore levied by the Borough of Philipsburg.

(Ord. 889, 5/18/1981, §3; as amended by Ord. 1038, 1/9/2006, §1; and by A.O.

§24-404. Amount of Tax.

Beginning with the first day of January 2006, each occupation as hereinbefore defined, engaged in within the Borough of Philipsburg, shall be required to pay an Emergency and Municipal Services Tax in the amount of \$20 per annum.

(Ord. 889, 5/18/1981, §4; as amended by 1038, 1/9/2006, §4)

§24-405. Duty of Employer.

Each employer within the Borough of Philipsburg as well as those employers situated outside of the Borough of Philipsburg but who engage in business within the Borough of Philipsburg, it and performing for him it within the Borough of Philipsburg the tax levied by this Part. The employer then shall make a return and payment of the tax collected to the Borough Tax Collector. Further, each employer is authorized hereby to deduct this tax from the salary of each employee in its employ whether said employee is paid by salary, wages or commission and whether or not part or all of the employee's services are performed within the Borough.

(Ord. 889, 5/18/1981, §5; as amended by Ord. 1038, 1/9/2006, §5)

§24-406. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Council of the Borough of Philipsburg or its designated Tax Collector. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to said employee, the employer shall be responsible for the payment of the tax in full though the tax had originally been levied against him.

(Ord. 889, 5/18/1981, §6; as amended by A.O.

§24-407. Dates for Determining Tax Liability and Payment.

Each employer shall use his employment records from the first day of January to the first day of May for determining the number of employee from whom said tax shall be deducted and paid over to the Tax Collector on or before June 1. Supplemental reports shall be made by each employer as reflected on his employment records from May 1, to August 1 and from August 1, to October 1 payments on these supplemental reports shall be made on September 1 and November 1 respectively.

(Ord. 889, 5/18/1981, §7; as amended by A.O.)

§24-408. Individuals Engaged in More than One Occupation.

Each individual who shall have more than one occupation within the Borough of Philipsburg shall be subject to the payment of this tax on his principal occupation and his principal employer shall deduct this tax and deliver to him evidence of deduction having been made and when presented to any other employer shall be authority for such employer to not deduct this tax from the employee's wages, but to include such employee on his return by setting forth his name, address and the name and account number of the employer who deducted this tax.

(Ord. 889, 5/18/1981, §8)

§24-409. Self-Employed Individuals.

All self-employed individuals who perform service of any type or kind, engage in any occupation or profession within the Borough of Philipsburg shall be required to comply with this Part and pay the tax to the Tax Collector on June 1 or as soon thereafter as he engages in an occupation.

(Ord. 889, 5/18/1981, §9; as amended by A.O.)

§24-410. Employers and Self-Employed Individuals Residing Beyond the Corporate Limits of the Borough of Philipsburg.

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

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against either the employer or employee for the collection of this tax as hereinafter provided.

(Ord. 889, 5/18/1981, §10)

§24-411. Administration of Tax.

1. It shall be the duty of the Tax Collector to accept and receive payment of this tax and to 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.
2. The Tax Collector is hereby charged with the administration and enforcement of this Part and is hereby charged and empowered to prescribe, adopt, promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination of the payroll records of any employer subject to this Part, the examination and correction of any return made in compliance with this Part and any payment alleged or found to be incorrect or as to which over payment is claimed or found to have occurred. Any person aggrieved by an decision of the Tax Collector shall have the right to appeal to the Court of Common Pleas of Centre County, Pennsylvania, as in other cases provided.
3. The Tax 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 Tax Collector the means, facilities and opportunity for such examination.

(Ord. 889, 5/18/1981, §11; as amended by A.O.)

§24-412. Suits for Collection.

1. In the event that any tax under this Part remains due or unpaid 30 days after the due dates above set forth, the Tax Collector may sue for the recovery of any such tax due or unpaid under this Part together with interest and penalty.
2. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of said tax shall be calculated beginning with the due dates of said tax and a penalty of 5% be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefor shall in addition be responsible and liable for the costs of collection.

(Ord. 889, 5/18/1981, §12)

§24-413. Fine and Penalty.

Whoever makes any false or untrue statements on any return required by this Part or who refuses inspection of his books, records or accounts in his custody and control setting forth the number of employees subject to this tax who are in his employment or whoever fails or refuses to file any return required by this Part shall, upon conviction before any district justice, be sentenced to pay a fine of not more than \$300 for each offense and, in default of payment of said fine, be imprisoned in Centre County prison for a period not exceeding 30 days for each offense. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refused to file a return required by this Part.

(Ord. 889, 5/18/1981, §13)

§24-414. Designation of Tax Collector.

The Tax Collector designated is H.A. Berkheimer Associates, until revoked by Council.

(Ord. 889, 5/18/1981, §16)

§24-415. Duties of Collector.

The Tax Collector shall turn over to the Borough Treasurer all receipts of collection of this tax, quarterly.

(Ord. 889, 5/18/1981, §17)

§24-416. Effective Date.

This Part shall become effective and remain in force and effect for the fiscal year of 2006 and thereafter as provided in the aforesaid Act 511 of 1965, approved December 31, as amended from time to time and known as the "Local Tax Enabling Act."

(Ord. 889, 5/18/1981, §18; Ord. 1038, 1/9/2006; §6)

PART 5

LOCAL TAXPAYERS BILL OF RIGHTS

§24-501. Short Title.

This Part shall be known and may be cited as the "Local Taxpayers Bill of Rights."

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§24-502. Definitions.

The following words and phrases when used in this Part shall have the meanings given to them in this Section unless the context clearly indicates otherwise:

ASSESSMENT — the determination by the Borough of the amount of underpayment by a taxpayer.

BOARD — a board of local tax appeals established under 53 Pa. C.S. A. §8430 (relating to administrative appeals).

ELIGIBLE TAX — any of the following, including interest and penalty provided by law, when levied by a political subdivision:

- A. Any tax authorized or permitted under the Act of December 31, 1965 (P.L. 1257, No. 511, known as the "Local Tax Enabling Act."
- B. Any per capita tax levied under any act.
- C. Any occupation, occupation assessment or emergency and municipal services tax levied under any act.
- D. Any tax on income levied under any act.
- E. Any tax measured by gross receipts levied under any act.
- F. Any tax on a privilege levied under any act.
- G. Any tax on amusements or admissions levied under any act.
- H. Any tax on earned income and net profits.

GOVERNING BODY — the Borough Council of the Borough of Philipsburg, Centre County, Pennsylvania.

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OVERPAYMENT — any payment of tax which is determined in the manner provided by law not to be legally due.

TAXPAYER — an individual, partnership, association, corporation, limited liability company, estate, trust, trustee, fiduciary or any other entity subject to or claiming exemption from any eligible tax or under a duty to perform an act for itself or for another or pursuant to the authority of an act providing for an eligible tax.

UNDERPAYMENT — the amount or portion of any tax determined to be legally due in the manner provided by law for which payment or remittance has not been made.

VOLUNTARY PAYMENT — a payment of an eligible tax made pursuant to the free will of the taxpayer. The term does not include a payment made as a result of distraint or levy or pursuant to a legal proceeding in which the Borough is seeking to collect its delinquent taxes or file a claim therefor.

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§24-503. Disclosure Statement.

1. Contents. The Borough shall prepare a statement which sets forth the following in simple and nontechnical terms:
 - A. The rights of a taxpayer and the obligation of the Borough during an audit or an administrative review of the taxpayer's books or records.
 - B. The administration and judicial procedures by which a taxpayer may appeal or seek review of any adverse decision of the Borough.
 - C. The procedure for filing and processing refund claim and taxpayer complaints.
 - D. The enforcement procedures.
2. Distribution. The Borough shall notify any taxpayer contacted regarding the assessment, audit, determination, review or collection of an eligible tax of the availability of the statement under subsection (1). The Borough shall make copies of the statement available to taxpayers upon request at no charge to the taxpayer, including mailing costs. The notification shall be stated as follows:

"You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes by calling the Borough of Philipsburg at 814-342-3440 during normal business hours."

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§24-504. Requirements for Requests.

1. Minimum Time Period for Taxpayer Response.
 - A. The taxpayer shall have at least 30 calendar days from the mailing date to respond to request for information by the Borough. The Borough shall grant additional reasonable extensions upon application for good cause.
 - B. The Borough shall notify the taxpayer of the procedures to obtain an extension in its initial request.
 - C. The Borough shall take no lawful action against a taxpayer for the tax year in question until the expiration of the applicable response period, including extensions.
2. Requests for Prior Year Returns.
 - A. Except as provided in subsection (B), an initial inquiry by the Borough regarding a taxpayer's compliance with any eligible tax may include taxes required to be paid or tax returns required to be filed no more than 3 year prior to the mailing date of the notice.
 - B. The Borough may make a subsequent request for a tax return or supporting information if, after the initial request, the Borough determines that the taxpayer failed to file a tax return, under-reported income or failed to pay a tax for one or more of the tax periods covered by the initial request.

This subsection shall apply if the Borough has sufficient information to indicate that the taxpayer failed to file a required return or pay an eligible tax which was due more than 3 years prior to the date of the notice.
3. Use of Federal Tax Information. The Borough may require a taxpayer to provide copies of the taxpayer's Federal individual income tax return if the Borough can demonstrate that the Federal tax information is reasonably necessary for the enforcement or collection of an eligible tax and the information is not available from other available sources or the Department of Revenue.

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§24-505. Refunds of Overpayments.

1. General Rule. A taxpayer who has paid an eligible tax to the Borough may file a written request with the Borough for refund or credit of the eligible tax. A request for refund or credit of the eligible tax. A request for refund shall be made within 3 years of the de date for filing the report as extended or 1 year after actual pay-

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ment of the eligible tax, whichever is later. If no report is required, the request shall be made within 3 years after the due date for payment of the eligible tax or within 1 year after actual payment of the eligible tax, whichever is later.

- A. For purposes of this Section, a tax return filed by the taxpayer with the Borough showing an overpayment of tax shall be deemed to be a written request for a cash refund unless otherwise indicated on the tax return.
 - B. A request for refund under this Section shall not be considered a petition under §53 Pa.C.S.A. §8340 (relating to petitions).
2. Notice of Underpayment. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for refund shall be filed with the Borough within 1 year of the date of the payment.

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§24-506. Interest on Overpayment.

1. General Rule. All overpayments of tax due the Borough, including taxes on real property, shall bear simple interest from the date of overpayment until the date of resolution.
2. Interest Rate. Interest on overpayments shall be allowed and paid at the same rate as the Commonwealth is required to pay pursuant to §806.1 of the Act of April 9, 1929 (P.L. 343, No. 176) known as the Fiscal Code.
3. Exceptions.
 - A. No interest shall be allowed if an overpayment is refunded or applied against any other tax, interest or penalty due the Borough within 75 days after the last date prescribed for filing the report of the tax liability or within 75 days after the date the return or report of the liability due is filed, whichever is later.
 - B. Overpayments of interest or penalty shall not bear any interest.
4. Acceptance of Refund Check. The taxpayer's acceptance of the Borough check shall not prejudice any right of the taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check by the Borough shall be deemed to be acceptance of the check by the taxpayer for purposes of this Section.
5. Definitions. As used in this Section, the following words and phrases shall have the meaning given to them in this Section:

DATE OF OVERPAYMENT — the later of the date paid or the date tax is deemed to have been overpaid as follows:

- A. Any tax actually deducted and withheld at the source shall be deemed to have been overpaid on the last day of filing the report for the tax period, determined without regard to any extension of time for filing.
- B. Any amount overpaid as estimated tax for the tax period shall be deemed to have been overpaid on the last day for filing the final report for the tax period, determined without regard to any extension of time for filing.
- C. An overpayment made before the last day prescribed for payment shall be deemed to have been paid on the last day.
- D. Any amount claimed to be overpaid with respect to which a lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid 60 days following the date of initiation of the review or procedure.
- E. Any amount shown not to be due on an amended income or earned income and net profits tax return shall be deemed to have been overpaid 60 days following the date of filing of the amended income tax return.

DATE of RESOLUTION — the date the overpayment is refunded or credited as follows:

- A. For a cash refund, a date preceding the date of the Borough's refund check by not more than 30 days.
- B. For a credit for an overpayment.
 - (1) The date of the Borough's notice to the taxpayer of the determination of the credit; or
 - (2) The due date for payment of the tax against which the credit is applied, whichever first occurs. For a cash refund of a previously determined credit, interest shall be paid on the amount of the credit from a date 90 days after the filing of a request to convert the credit to a cash refund to a date preceding the date of the refund check by not more than 30 days whether or not the refund check is accepted by the taxpayer after tender.

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§24-507. Notice of Basis of Underpayment.

The Borough shall notify the taxpayer, in writing, of the basis for any underpayment that the Borough has determined to exist. The notification shall include:

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- A. The tax period or periods for which the underpayment is asserted.
- B. The amount of the underpayment detailed by tax period.
- C. The legal basis upon which the Borough has relied to determine that an underpayment exists.
- D. An itemization of the revisions made by the Borough to a return or report filed by the taxpayer that results in the determination that an underpayment exists.

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§24-508. Abatement of Certain Interest and Penalty.

- 1. Errors and Delays. In the case of any underpayment, the Borough may abate all or any part of interest for any period for the following:
 - A. Any underpayment or tax finally determined to be due attributable in whole or in part to any error or delay by the Borough in the performance of a ministerial act. For purposes of this subsection, an error or delay shall be taken into account only if no significant aspect of the error or delay can be attributed to the taxpayer and after the Borough has contacted the taxpayer, in writing, with respect to the underpayment of tax finally determined to be due or payable.
 - B. Any payment of a tax to the extent that any error in delay in the payment is attributable to an officer, employee or agent of the Borough being erroneous or dilatory in performance of a ministerial act. The Borough shall determine what constitutes timely performance of ministerial acts performed under this subsection.
- 2. Abatement Due to Erroneous Written Advice by the Borough.
 - A. The Borough shall abate any portion of any penalty or excess interest attributable to erroneous advice furnished to the taxpayer in writing by an officer, employee or agent of the Borough acting in the officer's, employee's or agent's official capacity if:
 - (1) The written advice was reasonably relied upon by the taxpayer and was in response to specific written request of the taxpayer; and
 - (2) The portion of the penalty or addition to tax or excess interest did not result from a failure by the taxpayer to provide adequate or accurate information.

- B. This subsection shall not be construed to require the Borough to provide written advice to taxpayers.

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§24-509. Application of Payments.

Unless otherwise specified by the taxpayer, all voluntary payments of an eligible tax shall be prioritized by the Borough as follows:

- A. Tax.
- B. Interest.
- C. Penalty.
- D. Any other fees or charges.

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§24-510. Administrative Appeals.

A political subdivision levying an eligible tax shall establish an administrative process to receive and make determinations on petitions from taxpayers relating to the assessment, determination or refund of an eligible tax. The administrative process shall consist of any one of the following:

- A. Review and decision or hearing and decision by the Borough Tax Appeals Board appointed by the Borough Council. The Board shall consist of at least three but not more than seven members. Qualifications for service on the Board and compensation, if any, of the members shall be determined by the Borough Council. The Borough Council may enter into agreements with other political subdivisions to establish a joint local tax appeal board.
- B. Review and decision by the Borough Council in executive session.
- C. A hearing and decision by a hearing officer appointed by the Borough Council. The Borough Council shall determine the qualifications and compensation, if any, of the hearing officer.
- D. An administrative review or appeal process existing on the effective date of this Part that is substantially similar to the procedures in subsections (A), (B) or (C).

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§24-511. Petitions.

1. Filing. A petition is timely filed if the letter transmitting the petition is post-marked by the United States Postal Service on or before the final day on which the petition is required to be filed. Deadlines for filing petitions are as follows:
 - A. Refund petitions shall be filed within 3 years after the due date for filing the report as extended or 1 year after actual payment of an eligible tax, whichever is later. If no report is required, the petition shall be filed within 3 years after the due date for payment of an eligible tax or within 1 year after actual payment, whichever is later.
 - B. Petitions for reassessment of an eligible tax shall be filed within 90 days of the date of the assessment notice.
2. Contents. The Borough Council shall adopt regulations specifying the form and content of petitions, including the process and deadlines.

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§24-512. Practice and Procedure.

Practice and procedure under this Section shall not be governed by 2 Pa.C.S. Chs. 5 Subch. B (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action). The Borough Council shall adopt regulations governing practice and procedure under this Section.

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§24-513. Decisions.

Decisions on petitions submitted under this Section shall be issued within 60 days of the date a complete and accurate petition is received. Failure to act within 60 days shall result in the petition being deemed approved.

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§24-514. Appeals.

Any person aggrieved by a decision under this Part who has a direct interest in the decision shall have the right to appeal to the court vested with the jurisdiction of local tax appeals by or pursuant to 42 Pa. C.S. (relating to judiciary and judicial procedure).

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§24-515. Equitable and Legal Principles to Apply.

Decisions under this Part may be made according to principles of law and equity.

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§24-516. Installment Agreements.

1. Authorization. The Borough may enter into written agreements with any taxpayer under which the taxpayer is allowed to satisfy liability for any eligible tax in installment payments if the Borough determines that the agreement will facilitate collection.
2. Extent to Which Agreements Remain in Effect.
 - A. Except as otherwise provided in this Section, any agreement entered into by the Borough under subsection (1) shall remain in effect for the term of the agreement.
 - B. The Borough may terminate any prior agreement entered into under subsection (1) if:
 - (1) Information which the taxpayer provided to the Borough prior to the date of the agreement was inaccurate or incomplete; or
 - (2) The Borough believes that collection of any eligible tax under the agreement is in jeopardy.
 - C. If the Borough finds that the financial condition of the taxpayer has significantly changed, the Borough may alter, modify or terminate the agreement, but only if:
 - (1) Notice of the Borough's finding is provided to the taxpayer not later than 30 days prior to the date of such action; and
 - (2) The notice contains the reasons why the Borough believes a significant change has occurred.
 - D. The Borough may alter, modify or terminate an agreement entered into by the Borough under subsection (1) if the taxpayer fails to do any of the following:
 - (1) Pay any installment at the time the installment is due under such agreement.

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- (2) Pay any other tax liability at the time liability is due.
 - (3) Provide a financial condition update as requested by the Borough.
 3. Prepayment Permitted. Nothing in this Section shall prevent a taxpayer from prepaying in whole or in part any eligible tax under any agreement with the Borough.
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§24-517. Confidentiality of Tax Information.

1. Any information gained by the Borough as a result of any audit, return, report, investigation, hearing or verification shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for the Borough to:
 - A. Divulge or make known in any manner any confidential information gained in any return, investigation, hearing or verification to any person.
 - B. Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person.
 - C. Print public or make known in any manner any confidential tax information.
2. An offense under this Section is a misdemeanor of the third degree and, upon conviction thereof, a fine of not more than \$2,5000 and cost, or a term of imprisonment for not more than 1 year, or both, may be imposed. If the offender is an officer or employee of the Borough, the officer or employee shall be dismissed from office or discharged from employment.

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§24-518. Taxes on Real Property.

Except as provided in §24-506 (Interest on Overpayment) this Part shall not apply to any tax on real property.

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