

Chapter 24

Taxation, Special

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Part 1**Earned Income Tax****§24-101. Definitions.**

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

Association - a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

Business - an enterprise, activity, profession, or undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit, whether by an individual, 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.

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 voluntarily fixed place of habitation of a person, 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 - salaries, wages, commissions, bonuses, incentive payments, fees, and tips and other compensation that may accrue or be received by an individual for services rendered, whether directly or through an agent and whether in cash or in property; but shall not include periodic payments for sick or disability benefits and those commonly recognized as old-age benefits, retirement pay, or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, nor public assistance or unemployment compensation payments, nor any wages or compensation paid by the United States to any person for active service in the Army, Navy, or Air Force of the United States nor any bonus or additional compensation paid by the United States or the Commonwealth of Pennsylvania or any other State for such service.

Employer - an individual, partnership, association, corporation, governmental body, or unit or agency, or any other entity employing one or more persons on a salary, wage, commission, or other compensation basis.

Net profits - the net income from the operation of a business, profession, or enterprise, except corporations, after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used in such business, profession, or enterprise, but without deduction of taxes based on income.

Non-resident - an individual, partnership, association, or other entity domiciled

outside the Borough of Connoquenessing.

Person - a natural person, partnership, corporation, fiduciary, or association. Whenever used in any section prescribing and imposing a penalty, the term "person," as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

Resident - an individual, partnership, association, or other entity domiciled in the Borough of Connoquenessing.

Taxpayer - a person, whether an individual, partnership, association, or any other entity, required hereunder to file a return of earnings or net profits, or to pay a tax thereon.

Collector - the Tax Collector of the Borough of Connoquenessing.

2. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

§24-102. Imposition of Tax.

1. A tax for general revenue purposes of ½% is hereby imposed on the following:

A. Earned income, as defined by this Part, received by residents of the Borough of Connoquenessing, on or after October 1, 1993.

B. Earned income, as defined by this Part, received by non-residents of the Borough of Connoquenessing for work done or services performed or rendered in the Borough of Connoquenessing on and after October 1, 1993.

B. Net profits earned on and after October 1, 1993, of businesses, professions, and other activities conducted by residents of the Borough of Connoquenessing.

C. Net profits, earned on and after October 1, 1993, of businesses, professions, and other activities conducted in the Borough of Connoquenessing by non-residents.

2. The tax levied under subsection .1.A or .1.B 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 subsection .1.C and .1.D herein shall relate to and be imposed on the net profits of any business, profession, or enterprise carried on by an person as owner or as proprietor, either individually or in association with some other person or persons.

§24-103. Declaration and Payment of Tax.

1. On or before April 15 of the subsequent year every taxpayer who receives net profits, or any earnings from which no tax was deducted under the provisions of §24-104 relating to collection at source, shall make and file with the Collector, on a form prescribed by him, a final return showing all of his net profits or earnings for the period commencing January 1 and ending December 31 of the prior tax year, the total amount of tax due, the amount of tax deducted under the provisions of §24-104, and the balance due.

2. The declaration or return shall show the amount of tax imposed by this Part on such net profits or earned income received by the taxpayer, the amount of tax which will be collected at source in accordance with §24-104, and the balance due. The taxpayer making the declaration or return shall, at the time of filing thereof, pay to the

Tax Collector the amount of tax shown as due thereon.

3. Every taxpayer who discontinues business prior to December 31 of a given tax year shall, within 15 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

4. Every employee receiving any earnings which are not subject to the provisions of §24-104 of this Part, relating to collection at source, whose liability to the Borough of Connoquenessing ceases prior to December 31 of a given tax year shall, within 15 days after such termination, file his final return as hereinabove required and pay the tax due.

(*Ord. 58, 10/7/1993, §3*)

§24-104. Collection at Source.

1. Every person within the Borough of Connoquenessing who employs one or more persons on a salary, wage, commission, or other compensation basis, other than domestic servants, shall on or before April 15 of the subsequent year, or within 15 days after becoming an employer, register with the Tax Collector his name and address and such other information as the Tax Collector may require.

2. Every person within the Borough of Connoquenessing who employs one or more persons on a salary, wage, commission, or other compensation basis, other than domestic servants, shall deduct monthly, or more often than monthly, at the time of payment thereof, the tax imposed by this Part on the earned income, as defined by this ordinance, due to his employee or employees, and shall on or before April 15 of the subsequent year and on or before the fifteenth day of each succeeding calendar quarter, file a return of taxes deducted on a form prescribed by the Tax Collector and pay to the Tax Collector the amount of tax deducted for the preceding quarter.

3. On or before February 28 of the succeeding year, every such employer shall file with the Tax Collector on forms prescribed by him:

A. An annual return showing the total amount of earned income paid, and total amount of tax deducted, and the total amount of tax paid to the Collector during the period commencing January 1 of the current tax year and ending December 31 of the current tax year.

B. A return for each employee employed during all or any part of the period commencing January 1 of the current tax year and ending December 31 of the current tax year setting forth the employee's name, address and Social Security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the amount of tax paid to the Tax Collector, and such other information as the Tax Collector may require. Every employer shall furnish a copy 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 tax year shall within 15 days after the discontinuance of business, file the returns hereinabove required and pay the tax due.

5. 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.58, 10/7/1993, §4*)

§24-105. Powers and Duties of Collector.

1. It shall be the duty of the Tax Collector to 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 paying the tax and the date of such receipt.

2. The Tax Collector is hereby charged with the administration and enforcement of the provisions of this Part, and 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 over-payment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this Part.

3. The Tax Collector and agents designated by him are hereby authorized to examine the books, papers, and records or any employer or of any taxpayer or supposed 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 or supposed employer and every taxpayer or supposed taxpayer is hereby directed and required to give to the Tax Collector or to any agent designated by him the means, facilities, and opportunity for such examinations and investigations as are hereby authorized.

4. Any information gained by the Tax Collector, his agents, or by any other official or agent of the Borough of Connoquenessing as a result of any declarations, returns, investigations, hearings, or verifications required or authorized by this Part shall be confidential except in accordance with a proper judicial order or as otherwise provided by law.

5. Any person aggrieved by any action of the Tax Collector shall have the right of appeal as provided by law.

(*Ord. 58, 10/7/1993, §5*)

§24-106. Suit for Collection of Tax.

1. The Tax Collector may sue for the recovery of taxes due and unpaid under this Part.

2. Any suit brought to recover the tax imposed by this Part shall be begun within 3 years after such tax is due or within 3 years after a 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 the provisions of this Part, there shall be no limitation.

B. Where an examination of the declaration or return in the possession of the Tax Collector, or any other evidence relating to such declaration or return, reveals a fraudulent evasion of taxes, there shall be no limitation.

C. Where any person has deducted taxes under the provisions of this Part and

has failed to pay the amounts so deducted to the Tax Collector, or where any person has wilfully failed or omitted to make the deductions required by this Part, there shall be no limitation.

D. In the case of substantial understatement of tax liability of 25% or more and no fraud, suit shall be instituted within 6 years.

E. The Tax Collector may file suit for the recovery of an erroneous refund provided that such civil action is filed within 2 years of the date such refund is made. However, if it appears that any such refund was induced by fraud or misrepresentation of material fact, then such action may be brought within 5 years of same.

(Ord. 58, 10/7/1993, §6)

§24-107. Interest and Penalties.

If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of the tax, and an additional penalty of ½% 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.

(Ord. 58, 10/7/1993, §7)

§24-108. Payment Under Protest and Refunds.

The Tax Collector is hereby authorized to accept payment under protest of the amount of tax claimed by the Borough of Connoquenessing in any case where any person disputes the validity or amount of the Borough's claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Collector, the amount of over-payment shall be refunded to the person who paid under protest.

(Ord. 58, 10/7/1993, §8)

§24-109. Applicability.

1. The tax imposed by this Part shall not apply:

A. To any person as to whom it is beyond the legal power of the Borough of Connoquenessing to impose the tax herein provided for under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.

B. To institutions or organizations operated for public, religious, educational, or charitable purposes, to institutions or organizations not organized or operated for private profit or to trusts and foundations established for any of the said purposes.

2. This Section shall not be construed to exempt any person who is an employer from the duty of collecting the tax at source from his employees and paying the amount collected to the Tax Collector under the provisions of §24-104 of this Part.

(Ord. 58, 10/7/1993, §9)

§24-110. Fines and Penalties for Violation.

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; any person who refuses to permit the Tax Collector or any agent designated by him to examine his books, records, and papers; and any person who 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 earnings 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, 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. [*Ord. 76, 12/29/2003*]

2. Any person who divulges any Information which is confidential under the provisions of §24-105.4 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 the forms required for making the declarations or returns required by this Part shall not excuse him from making such declaration or return.

(*Ord. 58, 10/7/1993, §10; as amended by Ord. 76, 12/29/2003*)

Part 2

Realty Transfer Tax

§24-201. Short Title.

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

(Ord. 52, 4/2/1987, §1)

§24-202. 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 Connoquenessing, 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. 52, 4/2/1987, §2)

§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 organization, 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 instrument or like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest, or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under §24-208 of this Part.

Family farm corporation - a corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business or agriculture shall not be deemed to include:

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

Governing Body - the Borough Council of the Borough of Connoquenessing Butler County, Pennsylvania. [Ord. 76, 12/29/2003]

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 decedents of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half-blood or legal adoption shall be treated as if they were related by the whole-blood.

Person - every natural person, association, or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

Real estate -

A. All lands, tenements, or hereditaments within the Borough of Connoquenessing including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees, and other improvements, immovables, or interests which by custom, usage, or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.

B. A condominium unit.

C. A tenant-stockholder's interest in a cooperative housing corporation, trust, or association under a proprietary lease or occupancy agreement.

Real estate company - a corporation or association which is primarily engaged in the business of holding, selling, or leasing real estate, 90% or more of the ownership interest in which is held by thirty-five or fewer persons, and which:

A. Derives 60% 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% 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 therefor, paid or to be paid,

including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate; provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale.

B. In the case of a gift, sale by execution upon a judgment, or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations

C. In the case of an easement or other interest in real estate, the value of which is not determinable under subsection .A or .B, the actual monetary worth of such interest

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. 52, 4/2/1987, §3)

§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 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 or other designee whereon the date of the payment of the tax, the 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 a tax on the same person or transfer then the tax levied by the Borough of Connoquenessing 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 Connoquenessing; provided, however, that the Borough of Connoquenessing 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 when due, interest at the rate in effect at the time the tax is due, shall be added and collected.

(*Ord. 52, 4/2/1987, §4*)

§24-205. Exempt Parties.

1. 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.

2. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

(*Ord. 52, 4/2/1987, §5*)

§24-206. Excluded Transactions.

1. The tax imposed by §24-104 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 one year from the date of condemnation.

B. A document which the Borough of Connoquenessing 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 previously 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 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 and 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, 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 (i) for no or nominal actual consideration between principal and agent or straw party; or (ii) from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part.

L. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.

M. 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.

N. 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.

O. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt or the grantee or a transfer to a nonprofit industrial development agency or authority.

P. 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.

Q. 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.

R. 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.

S. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 19054, (68A Stat. 3, 26 USC §501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural, or open space opportunities.

T. 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.

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

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

W. 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. 52, 4/2/1987, §6*)

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

Except as otherwise provided in §24-206, 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. 52, 4/2/1987, §7*)

§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% 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 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. 52, 4/2/1987, §8*)

§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. 52, 4/2/1987, §9*)

§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. 52, 4/2/1987, §10*)

§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. 42, 4/2/1987, §11*)

§24-212. Duties of Recorder of Deeds.

1. As provided in 16 P.S. §11011-6, as amended by the 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 Connoquenessing based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Borough of Connoquenessing.

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 the Borough of Connoquenessing 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 re-record the deed or record the additional realty transfer tax form only when both the State and local amounts and a re-recording or recording fee has been tendered.

(*Ord. 52, 4/2/1987, §12*)

§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 Subsection shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full, and complete value thereof or the reason, if any, why such document is not subject to tax under this Part.

(*Ord. 52, 4/2/1987, §13*)

§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% 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 of fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

(*Ord. 52, 4/2/1987, §14*)

§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 the Borough of Connoquenessing, 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 Butler 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. 52, 4/2/1987, §15*)

§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. 52, 4/2/1987, §16*)

§24-217. Regulations.

The Recorder of Deeds of the County of Butler, Pennsylvania, 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. 52, 4/2/1987, §17*)

