

CHAPTER 24

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Part 1

Earned Income

§101. Definitions.

ASSOCIATION - a partnership, limited partnership or any other unincorporated group of two(2) or more persons.

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 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 function are discharged.

EARNED INCOME - salaries, wages, commissions, bonuses, incentive payments, fees, tips, and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or in property; not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness and disability or retirement or payments arising under workmen's compensation acts, occupational disease acts and similar legislation, or payments 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, or payments commonly known as public assistance, or unemployment compensation payments made by any governmental agency or payments to reimburse expenses or payments made by any governmental agency or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs, including, but not limited to, programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.

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

EMPLOYER - a person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one (1) or more persons for a salary, wage, commission or

other compensation.

NET PROFITS - the net income from the operation of a business, profession, or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession, or other activity, but without deduction of taxes based on income.

NON-RESIDENT - 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. 6/9/80, §1)

§102. Imposition of Tax. The tax levied under this Part shall be applicable to earned income received and to net profits earned in the period beginning July 1 of the year 1980, and ending December 31 of that year, or for taxpayer fiscal years beginning on and after July 1 in the year 1980, and the tax shall continue in force thereafter on a calendar year or taxpayer fiscal year basis, without annual re-enactment, unless the rate of the tax is subsequently changed. A tax for general revenue purposes of one percent (1%) per annum is hereby imposed to become effective July 1, 1980, for the year 1980, and on the first day of January of each succeeding calendar year or taxpayer fiscal year on the following:

A. Earned income received and net profits earned by all residents of the Borough of Everett.

B. Earned income received by non-residents of the Borough of Everett for work done or services performed or rendered in said Borough.

C. Net profits earned by non-residents of the Borough of Everett from businesses, professions, and other activities conducted in said Borough by non-residents.

(Ord. 6/9/80, §2)

§103. Declaration and Payment of Tax

1. Net Profits.

A. Every taxpayer making net profits shall on or before July 15, of the year 1980, 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 July 1 and ending December 31 of that year, and in succeeding years for the

period beginning January 1 and ending December 31, and pay to the officer in four (4) equal quarterly installments the tax thereon as follows: The first installment at the time of filing the declaration, and the other installments on or before September 16, of the year 1980, January 15 of the succeeding year, and thereafter on or before June 16, September 16 and January 16, respectively.

B. Any taxpayer who first anticipates any net profit after July 16 of the year 1980, shall make and file the declaration hereinabove required on or before September 16, or December 31, of the year 1980, and thereafter on or before April 16, June 16, September 16, or December 16 of succeeding years, whichever of these dates next follows the date of 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. 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 July 1, and ending December 31, of the year 1980, and in succeeding years for the period beginning January 1, and ending December 31, 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, 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 is 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 anticipates 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 any year, shall within thirty (30) days after the discontinuance of business file his final return as hereinabove required and pay the tax due.

2. Earned Income

A. Annual Earned Income Tax Return. Every Taxpayer shall, on or before April 15, of the succeeding year, make and file with the officer on a form prescribed by the officer a final return showing the amount of earned income received during the period beginning July 1, 1980, and ending December 31, 1980, and annually thereafter for the period beginning January 1, and ending December 31, 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.

B. Earned Income Not Subject to Withholding. Each taxpayer who is employed for a salary, wage, commission or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the officer on a form prescribed or approved by the officer, a quarterly return on or before April 30, July 31, October 31, and January 31, of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the three-month periods ending March 31, June 30, September 30, and December 31, 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. 6/9/80, §3)

§104. Collection at Source.

1. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Borough of Everett who employs one (1) or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within fifteen (15) days after becoming an employer, 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 Borough of Everett who employs one (1) 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 July 31, and October 31, of the year 1980, and January 31, of the succeeding year and on or before April 30, July 31, and January 31, of each year thereafter file a return and pay to the officer the amount of taxes deducted during the preceding three-month periods ending March 31, June 30, September 30, and December 31, 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 three-month period, the tax upon such employee, the total earned income of all such employees during such preceding three-month period, and the total tax deducted therefrom and paid with the return.

Any employer who for two (2) of the preceding four (4) 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 such 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 July 1 and ending December 31, 1980, and annually thereafter beginning January 1 and ending December 31.

B. A return withholding statement for each employee employed during all or any part of the period beginning July 1, and ending December 31, 1980, and annually thereafter beginning January 1 and ending December 31, 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 political subdivision imposing the tax upon such employee, and the amount of tax paid to the officer. Every employer shall furnish two (2) copies of the individual return to the employee for whom it is filed.

4. Every such employer who discontinues business prior to December 31, of any year, shall, within thirty (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 Section 9 of the "Local Tax Enabling Act," every such employer who willfully or negligently fails or omits to make the deductions required by this Part 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 such employer to make the deductions required by this Part shall not relieve any employee from the payment of the tax or from complying with the requirements of the Part relating to the filing of declarations and returns.
(Ord. 6/9/80,, §4)

§105. Powers and Duties.

1. It shall be the duty of the officer 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 or business paying the tax and the date of such receipt.

2. The officer, before entering upon his official duties, shall give and acknowledge a bond to the Borough of Everett and those other political subdivisions also appointing him.

A. Each such bond shall be joint and several, with one (1) 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.

B. Each bond shall be conditioned upon the faithful discharge by the officer, his clerks, assistants, and appointees of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required of him by virtue of his office, upon the just 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 of other official things held in right of his

office.

C. Each such bond shall be taken in the name of the Borough of Everett and any other appointing authority or authorities, and shall be for the use of such 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 on the bond.

D. The Borough of Everett and/or other political subdivisions appointing the officer, or any person, may sue upon the said bond in its or his own name of its or his own use.

E. Each such bond shall contain the name or names of the surety company or companies bound thereon. The Borough of Everett and other political subdivisions appointing the officer shall fix the amount of the bond at any amount equal to the maximum amount of the taxes which may be in the possession of the officer at any given time.

F. The Borough of Everett and other political subdivisions appointing the officer may, at any time, upon cause shown and due notice to the officer, and his surety or sureties, require or allow the substitution or addition of a surety company acceptable to the Borough of Everett and such other political subdivisions 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.

G. The officer's bond shall be held in the custody of the Secretary of the Borough of Everett.

3. The officer charged with the administration and enforcement of the provisions of the Part is hereby empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of the Part, including provisions for the re-examination 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 refund in case of overpayment, for any period of time not to exceed six (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 regulation of any kind shall be enforceable unless it has been approved by resolution of the Borough of Everett. A copy of such rules and regulations currently in force shall be available for public inspection at the office of the officer and/or the office of the Secretary of the Borough of Everett.

4. The officer shall arrange for refund, on petition of and proof by the taxpayer, of 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.

5. The officer and agent 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 investigation, as are hereby authorized.

6. 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, investigations, hearings or verifications required or authorized by this Part or proper rules and regulations issued thereunder, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

7. The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.
(Ord. 6/9/80, §5)

§106. Compensation of Income Tax Officer. The income tax officer shall receive such compensation for his services and expenses as determined by the Borough of Everett. In case of a single income tax officer for the Borough of Everett and one (1) or more other political subdivisions, the taxing jurisdictions shall share in the officer's compensation and expenses according to the proportionate share that the total annual collection for all political subdivisions in a single collection district, except that with the agreement of two-thirds of all participating political subdivisions, a different manner of sharing may be substituted. (Ord. 6/9/80, §6)

§107. Suit for Collection of Tax.

1. The officer may sue in the name of the Borough of Everett and/or the other appointing political subdivisions for the recovery of taxes due and unpaid under this Part.

2. Any suit brought to recover the tax imposed by the Chapter shall be begun within three (3) years after such tax is due, or within three (3) years after the declaration 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 Chapter, there shall be no limitation.

B. Where an examination of the declaration or return filed by any person, or of 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 twenty-five (25%) percent or more and no fraud, suit shall be begun within six (6) years.

D. Where any person has 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 Part, there shall be no limitation.

E. Subsections (A) through (D) above shall not be construed to limit the Borough Council from recovering delinquent taxes by any other means provided by the "Local Tax Enabling Act" approved December 21, 1965, P.L. 1257, as amended.

3. The officer may sue for recovery of an erroneous refund provided each suit is begun two (2) years after making such refund, except that the suit may be brought within five (5) years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.
(Ord. 6/9/80, §7)

§108. Interest and Penalties. If for any reason the tax is not paid when due, interest at the rate of six percent (6%) per annum of the amount of said tax and an additional penalty of one-half of one percent (1/2%) 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 taxpayer liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties imposed herein.
(Ord. 6/9/80, §8)

§109. Fines and Penalties.

1. Any person who fails, neglects, or refuses to make any declaration or return required by this Part, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part, shall, upon conviction thereof before any court of competent jurisdiction in the county or counties in which the political subdivision imposing the tax is located, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each offense, and costs, and, in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty (30) days. [Ord. 271]

2. Any person who divulges any information which is confidential under the provisions of this Part, shall, upon conviction thereof before any court of competent jurisdiction, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each offense, and costs, and in default of payment of said fines and costs to be imprisoned for a period not exceeding thirty (30) days. [A.O.]

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. 6/9/80, §9; as amended by Ord. 271, 6/8/1992)

§110. Distraint. The officer shall have power, in case of the neglect or refusal of any person, co-partnership, association, or corporation, to make payment of the amount of any tax due by him, after two (2) months from the date of the tax notice, to levy the amount of such tax, any penalty due thereon and costs, not exceeding costs and charges allowed constables for similar services by distress and sale of the goods and chattels of such delinquent, wherever situate or found, upon giving at least ten (10) days public notice of such sale, by posting ten (10) written or printed notices, and by one (1) advertisement in a newspaper of general circulation published in the County. No failure to demand or collect any taxes by distress and sale of goods and chattels shall invalidate any return made, or lien filed for nonpayment of taxes, or any tax sale for the collection of taxes. (Ord. 6/9/80, §10)

§111. Collection of Delinquent Earned Income Taxes from Employers.

1. The officer shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals, employing persons owing delinquent earned income taxes or whose wife owes delinquent earned income taxes, or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent earned income taxes, or whose spouse owes delinquent earned income taxes, upon the presentation of a written notice and demand under oath or affirmation, containing the name of the taxable or the husband thereof and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings 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 sixty (60) days thereafter become due, or from any unpaid commissions or earnings of any such taxable in its or his possession, or that shall within sixty (60) days thereafter become due, or from any unpaid commissions or earnings of any such taxable in its or his possession, or that shall within sixty (60) days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the delinquent earned income taxes and penalties, interest and costs, shown upon the written notice or demand and to pay the same to the officer within sixty (60) days after such notice shall have been given. Such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding two (2%) percent of the amount of money collected and paid over to the officer. Upon failure or any such corporation, political subdivision, association, company, firm or individual to deduct the amount of such taxes or to pay the same over to the officer, less the cost of bookkeeping involved in such transaction, as herein provided, with the time hereby required such corporation, political subdivision, association, company, firm or individual shall forfeit and pay the amount of such tax for each such

taxable whose taxes are not withheld and paid over, or that are withheld and or paid over together with a penalty of ten (10%) percent added thereto, to be recovered by an action of assumpsit in a suit to be instituted by the officer or by the proper authorities of the taxing district, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law.

2. Upon presentation of a written notice and demand under oath or affirmation, to the State Treasurer or any other fiscal officer of the State, or its boards, authorities, agencies or commissions, it shall be the duty of the treasurer or officer to deduct from the wages then owing, or that shall within sixty (60) days thereafter become due to any employee, a sum sufficient to pay the respective amount of the delinquent earned income tax and costs shown on the written notice. The same shall be paid to the officer within sixty (60) days after such notice shall have been given.

(Ord. 6/9/80, §11; as amended by Ord 271, 6/8/1992)

§112. Collection by Assumpsit. The officer shall have power to collect unpaid taxes from the persons owing such taxes by suit in assumpsit or other appropriate remedy. Upon each such judgment, execution may be issued without any stay or benefit of any exemption law. The right of the officer to collect unpaid taxes under the provision shall not be affected by the fact that such taxes have been entered as liens in the office of the Prothonotary. (Ord. 6/9/80, §12)

§113. Enabling Act. Any provisions of §13 of the "Local Tax Enabling Act" approved December 31, 1965, P.L. 1257, as amended, which are not hereinbefore specifically set forth are nevertheless hereby made a part of this Chapter. (Ord. 6/9/80, §13)

§114. Effective Date. The provisions of this Part shall become effective on the 1st day of July, 1980. (Ord. 6/9/80, §14)

Part 2

Realty Transfer

§201. Short Title. This Part shall be known as the "Realty Transfer Tax Ordinance of the Borough of Everett. (Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§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, 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 et seq. (Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§203. Definitions.

ASSOCIATION - a partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two (2) 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 of real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding thirty (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 §202.

FAMILY FARM CORPORATION - a corporation of which at least seventy-five percent (75%) of its assets are devoted to the business of agriculture and at least seventy-five percent (75%) of each class of stock of the corporation is continuously owned by members 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; or
- E. Manufacturing or processing operations of any kind.

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

MUNICIPALITY - the Borough of Everett.

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

REAL ESTATE -

A. All lands, tenements or hereditaments within this Borough, 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, ninety percent (90%) or more of the ownership interest in which is held by thirty-five (35) or fewer persons and which:

A. Derives sixty percent (60%) or more of its annual gross receipts from the ownership or disposition of real estate: or,

B. Holds real estate, the value of which comprises ninety percent (90%) or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

TITLE TO REAL ESTATE -

A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years including without limitation an estate in fee simple, life estate or perpetual leasehold; or

B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consist 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 thirty (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 therefore, 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 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 clause (A) or (B), the actual monetary worth of such interest.

D. The actual consideration for or actual monetary worth of any executory agreement for construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§204. Imposition of Tax; Interest.

1. Every person who makes, executes, delivers, accepts or presents for the recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of one percent (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 thirty (30) days of acceptance of such document or within thirty (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 of deeds 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 [governing body] under the authority of that Act shall during the tie such duplication of the tax exists, except as hereinafter otherwise provided, be one-half (1/2) of the rate and such one-half (1/2) shall become effective without any action on the part of the [governing body] provided, however, that the Borough 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 (1/2) of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under "The Local Tax Enabling Act."

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.

(Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§205. 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. (Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§206. Excluded Transactions. The tax imposed by §204 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 or 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 (1) year from the date of condemnation.

B. A document which the Borough is prohibited for 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 or division in kind for no or nominal actual consideration of property passed by testate or interstate 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 between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one (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 interstate 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 except 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.

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.

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 two (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 a 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: (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.

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 Section 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 seventy-five (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 is one dollar (\$1.00) or less.

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

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

(Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§207. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders, Thereof. Except as otherwise provided in §6, document 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 section, corporations and associations are entities separate from their members, partners, stockholders and shareholders.

(Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§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, ninety percent (90%) or more of the total ownership interest in the company within a period of three (3) years.

2. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.

3. Within thirty (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.

(Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§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 a 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.

(Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§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. (Res.5/1/67; as revised by Ord.271, 6/8/1992)

§211. 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. (Res.5/1/67; as revised by Ord.271, 6/8/1992)

§212. Duties of Recorder of Deeds.

1. As provided in 16 P.S. S11011-6, 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 Borough based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Borough.

2. In order to ascertain the amount of the 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 all local realty transfer taxes collected, less two percent(2%) for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in

reporting collections of the Pennsylvania realty transfer tax. The two percent (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 rerecord the deed or record the additional realty transfer tax form only when both the state and local amounts and a rerecording or recording fee has been tendered.

(Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§213. Statement of Value. Every document lodged with or presented to the recorder of deeds for recording, shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part. (Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§214. Civil Penalties.

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

2. In the case of failure to record a declaration required under this Part on the date prescribed therefore, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax five percent (5%) of the amount of such tax if the failure is for not more than one (1) month, with an additional five percent (5%) for each additional month or fraction thereof during which such failure continues, not exceeding fifty percent (50%) in the aggregate.

(Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§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, 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 discharged 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 Bedford 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, (Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§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. (Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§217. Regulations. The Recorder of Deeds of Bedford County 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. (Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

§218. Effective Date. This Part shall become effective on enactment and shall continue in effect on a calendar year basis without annual reenactment. (Res. 5/1/67; as revised by Ord. 271, 6/8/1992)

Part 3

Amusement Devices Tax

§301. Definitions. Unless otherwise herein expressly stated, the following terms shall have the meanings hereby respectively indicated:

DEVICE - any juke box or mechanical amusement device for the use of which for profit, a tax is levied under this Part.

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

MECHANICAL AMUSEMENT DEVICE - any device other than a "juke box" which, upon the insertion of a coin, slug, token, plate or disc, may be operated for use as a game, entertainment or amusement, whether or not registering a score and whether or not a prize is offered. Provided: such term shall not include any gambling device or any mechanism that has been judicially determined to be a gambling device.

GAME OF SKILL - any device other than a "juke box," which upon the insertion of a single coin, slug, token, plate or disc, per each play or player, may be operated for use as a game, entertainment or amusement, in which the score is determined by the manual dexterity of the player or players whether or not registering a score and whether or not a prize is offered. Provided: such term shall not include any gambling device or any mechanism that has been judicially determined to be a gambling device.

COLLECTOR - a duly appointed agent of the Borough of Everett in charge of levy and collection of taxes on devices under this Part.

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

In this Part, the singular shall include the plural and the masculine shall include the feminine and neuter.
(Ord. 9/1/73, §1)

§302. Authority of "The Local Tax Enabling Act". There is hereby imposed a tax, for general Borough purposes, under the Authority of "The Local Tax Enabling Act" approved December 31, 1965 (P.L. 511), upon the privilege of using for profit, within the Borough of Everett, any juke box or mechanical amusement device, and machines of games of skill, as herein defined. Such tax shall be payable by the person owning and/or operating the establishment in which such device is installed for use. On each device or juke box the tax shall be in the sum of fifteen dollars (\$15.00) for the period September 1, 1973 to December 31 1973. Thereafter the tax shall be in the sum of thirty-six dollars (\$36.00) for each calendar year or a portion thereof. (Ord. 9/1/73, §2)

§303. Payment of Tax. The tax imposed under this Part shall be payable to the Borough Treasurer of the Borough of Everett on or before

the 15th day of September, 1973, for the year 1973 and on the 15th day of January each year commencing with the year 1974. On any device installed after September 1, 1973, the tax shall be paid immediately after installation. No deduction or refund of any tax payable under this Part shall be granted in the case of any tax payable for less than a full calendar year, or in case of any device destroyed, stolen, sold or otherwise disposed of or transferred after the payment of such tax. Provided: However, in the case of the substitution of any device by another device in the same class, the use of which is taxable under this Part, no additional tax shall be paid, provided that the total number of devices of the same class in use upon the premises remains no greater than that upon which such tax was paid. (Ord. 9/1/73, §3)

§304. Expense of Collection

1. The collector shall procure, at the expense of the Borough of Everett, a sufficient number of certificates, upon each of which the following information shall be printed or inserted by typewriter:

- A. The name of the Borough.
- B. The number of the certificate.
- C. The name and address of the person paying the tax.
- D. The year or which the tax shall have been paid.
- E. The date on which such tax shall have been paid.
- F. The type of device for which the tax shall have been paid.
- G. The amount of tax paid.

2. Whenever any tax shall have been paid under this Part, the collector shall prepare in duplicate a certificate, as herein prescribed. The original of such certificate, to which the Borough Seal shall be affixed, shall be given to the person paying such tax, and the duplicate shall be kept on file by the collector. The collector shall also procure and give to each person paying such tax a seal to be affixed to each device for the use of which such tax shall have been paid. Such seal shall indicate the year for which such tax shall have been paid, the type of device and the certificate number.

3. In the case of the loss, defacement or destruction of any original certificate or seal, the person to whom such certificate or seal was issued shall apply to the collector who may issue a new certificate or seal in replacement thereof, upon payment of a fee of fifty cents (\$.50) and who shall amend the duplicate of the certificate first issued in case that a new certificate has been issued.

4. In case of the removal of any establishment in which any device for the use of which a tax shall have been paid under this Part, to another location in the Borough, or in case of a change in the identity of the person operating or owning any such establishment, the person operating such establishment shall report such fact within five (5) days of such change in location or personnel, and the collector shall immediately amend the certificate and duplicate certificate.

5. Before the removal of any device from any establishment, the person operating such establishment shall remove the seal issued under this Part from such device. Such seal may be affixed to any other device of the same class used in such establishment during the current year.

(Ord. 9/1/73, §4)

§305. Tax Not Paid When Due. If any tax levied in pursuance of this Part shall not be paid when due, a penalty of ten percent (10%) of the amount of tax due and unpaid shall be added thereto. (Ord. 9/1/73, §5)

§306. Prohibition of Disclosure. Any information gained by the collector or any other official or agent of the Borough as a result of any returns, investigations or verifications required or authorized by this Part shall be confidential, except for official purposes, and except in accordance with proper judicial order, or as otherwise provided by law. Any disclosure of any information, contrary to the provisions of this Section, shall constitute a violation of this Part. (Ord. 9/1/73, §6)

§307. Taxes Imposed Are By Law Recoverable. All taxes imposed by this Part, together with all penalties, interest and costs, shall be recoverable by the Borough Solicitor as debts of like amount are by law recoverable. (Ord. 9/1/73, §7)

§308. Usage for General Revenue. All taxes, interest and penalties collected or recovered by the collector or any other Borough officer or person for or in behalf of the Borough, shall be paid into the Borough Treasury as general revenue to be used for general revenue purposes. (Ord. 9/1/73, §8)

§309. Expenses Incurred. All expenses incurred in the administration of this Part shall be paid by the Borough. (Ord. 9/1/73, §9)

§310. Exemptions. 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. 9/1/73, §10)

§311. Fines and Penalties. Any person who shall be convicted for violating or failing to carry out any of the provisions or requirements of this Part or of neglecting, failing or refusing to furnish complete and correct returns or to pay over any tax levied by this Part at the time required, or of knowingly making any incomplete, false or fraudulent returns; or of doing or attempting to do anything whatsoever to avoid the payment of the whole or any part of the tax imposed under this Part shall be sentenced to a fine not exceeding six hundred (\$600.00) dollars and costs for each and every offense and, in default of payment thereof, to a term of imprisonment not to exceed thirty (30) days; provided that such fine or penalty shall be in addition to any other penalty imposed by any other Section of this Part. (Ord. 9/1/73, §11; as amended by Ord. 271, 6/8/1992)

§312. Imposition. The tax hereby imposed shall continue in force on a calendar year basis without annual re-enactment, pursuant to

the provisions of "The Local Tax Enabling Act," as amended. (Ord. 9/1/73, §12)

§313. Effective Date. This Chapter shall go into effect the first day of September 1973, pursuant to the authority of "The Local Tax Enabling Act," approved December 31, 1965 (P.L. 511), as amended. (Ord. 9/1/73, §13)

Part 4

L E R T A

Local Economic Revitalization Tax Assistance Act
(Act 76)

§401. Stipulations. WHEREAS, the Borough of Everett recognizes the need to encourage the rehabilitation of industrial, commercial, and other business property owned by individuals, associations, or corporations, and located within the geographic and political boundaries of the Borough of Everett; and

WHEREAS, the Local Economic Revitalization Tax Assistance Act, Act 76 of December 1, 1977, (72 P.S. 47722, et seq.), hereinafter referred to as the "Act", authorized local taxing authorities to exempt improvements to certain deteriorated industrial, commercial and other business property; and,

WHEREAS, enactment of such exemption will result in improving the conditions and size of the labor force in the Borough of Everett by stimulating existing businesses' employment conditions as well as creating new work positions; and,

WHEREAS, it is expected that increased employment opportunities in the form of new or expanded full time positions will result due to the improvement of deteriorated property within the five (5) years of exemption as hereinafter provided.

NOW THEREFORE, BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Borough of Everett, County of Bedford, Commonwealth of Pennsylvania as follows: (Ord. 273, 2/8/93, §1)

§402. Declaration of Deteriorated Status. It is hereby determined and declared that the entire corporate limits of the Borough of Everett is a deteriorated area as defined in Act 76 and for the purposes thereof there is hereby exempt from real property taxation the assessed value of improvements to deteriorated properties in the amounts and in accordance with the provisions and limitations hereinafter set forth within the boundaries of the Borough of Everett in accordance with the Act.
(Ord. 273, 2/8/93, §2)

§403. Tax Exemption. The exemption from taxes created hereunder shall be limited to the additional assessment valuation attributable to one hundred (100%) percent of the actual costs of improvements to the deteriorated property for the first two (2) years; seventy-five (75%) percent of the actual costs of improvements to the deteriorated property for the third year; fifty (50%) percent of the actual costs of improvements of the deteriorated property for the fourth year; and twenty-five (25%) percent of the actual costs of improvements of the deteriorated property for the fifth year.
(Ord. 273, 2/8/93, §3)

§404. Procedure for Obtaining Exemption. The procedure for obtaining exemption under this Ordinance shall be in accordance with the provisions of the Act. In addition, any person, association or corporation applying for tax exemption pursuant to this Ordinance shall

supply the Bedford County Assessment Office with a Statement projecting the number of new jobs created or existing jobs retained as result of the repair, construction or reconstruction of a deteriorated property. (Ord. 273, 2/8/93, §4)

§405. Provisions of Act 76. The provisions of Act No. 76 of the General Assembly of the Commonwealth of Pennsylvania, not herein enumerated, shall, nevertheless, be incorporated as part of this Ordinance by reference. If any sentence, clause of sections or parts of this Ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections, or parts of this Ordinance. It is hereby declared as the intent of the Borough of Everett that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or any part thereof not been included herein. (Ord. 273, 2/8/93, §5)

§406. Effective Date. This Ordinance shall become effective, within the boundaries of the Borough of Everett, immediately upon adoption by the Borough of Everett, the County of Bedford and the Everett Area School District in accordance with the provisions of the Act and shall automatically expire and terminate five (5) years following the effective date hereof; provided, however, that any person, association or corporation who has applied for the exception prior to said expiration date shall be entitled to a full five (5) year exemption if the application other wise qualifies. (Ord. 273, 2/8/93, §6)

Part 5

Local Services Tax

§501. Authority. This ordinance is enacted under authority of the Local Tax Act, 53 P.S. Section 6901, et seq., hereinafter as amended. All prior ordinances involving the imposition of tax on the privilege of engaging in an occupation within the Borough of Everett, Bedford County, Pennsylvania and particular ordinance 2005-12-01 are hereby amended, repealed and/or revised to the extent inconsistent hereby. (Ord. 2007-12-01, 12/10/07)

§502. Definitions. As used in this ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

COMPENSATION - salaries, wages, commission, tips bonuses, fees, gross receipts, or any other earned income.

EMPLOYER - any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency, or any other body engaged in business or situated in the Borough of Everett, employing one or more employees engaged in any occupation.

OCCUPATION - any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, for which monetary compensation is received or charged.

TAX COLLECTOR - tax collector of the Borough of Everett elected or designated by the Borough to collect or receive the taxes imposed by this Ordinance.

TAXPAYER - any natural person liable for the tax levied by this Ordinance. (Ord. 2007-12-01, 12/10/07)

§503. Imposition of Tax. A tax for emergency and/or municipal services to be used for police, fire and/or emergency services; road construction and/or maintenance within the Borough; and reduction of property taxes, in the amount of Fifty-Two Dollars (\$52.00) is hereby imposed upon the privilege of engaging in an occupation within the Borough of Everett, in the year 2008, and in each following calendar year. Each natural person whose total earned income and net profits from all sources within the Borough of Everett is twelve thousand (\$12,000.00) per year or more and exercises such privilege for any length of time in any calendar year beginning with the year 2008, shall pay the tax in accordance with the provisions hereof. Ten (\$10.00) Dollars of such tax collected in any year in which the Everett Area School District also adopts or has in effect an occupational privilege tax and the Local Tax Enabling Act limits the total tax to Ten (\$10.00) Dollars shall go to the Everett Area School District; otherwise, any amount above the sum of Ten (\$10.00) Dollars shall be collected by and become part of the revenue of the Borough of Everett. (Ord. 2007-12-01, 12/10/07)

§504. Exemptions from Tax. The following persons are hereby exempt from imposition of this tax:

1. Any person whose earned income and net profits from all sources within the Borough of Everett is less than Twelve Thousand Dollars (\$12,000.00) per year.

2. A person who, having served in any war or armed conflict in which the United States was engaged, is honorably discharged or released under honorable circumstances from active service and, as a result of such military service, is blind, paraplegic, a double or quadruple amputee, or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent permanent disability.

3. Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year.

Any person seeking to claim an exemption from this tax shall annually file an exemption certificate with the Borough and his or her employer if gainfully employed on form developed by the Department of Community and Economic Development affirming that such individual qualifies for an exemption as set forth above in this section. Any such person shall attach to such certificate copies of all of the person's W2s or last pay stubs from employment within the Borough for the year prior to the fiscal year for which the person is seeking exemption. (Ord. 2007-12-01, 12/10/07)

\$505. Collection Through Employers.

1. Each employer shall register with the tax collector the employer's name, address and other information the tax collector may require within fifteen (15) days after the effective date of this ordinance or within fifteen (15) days after first becoming an employer.

2. For each taxpayer employed for any length of time on or after January 1, 2008, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the tax collector, and pay to said tax collector the full amount of taxes deducted on or before April 30 of the current tax year. For each taxpayer for whom no prior deduction has been made, who is employed after the effective date of this Ordinance and in any of the three (3) month periods ending June 30, September 30, and December 31, of the tax year, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the tax collector, and pay said collector the full amount of all taxes deducted, on or before July 31 or October 31 of the current tax year, or January 31 of the following year, respectively.

3. Any employer who discontinues business or ceases operation before December 31 of any year during which this tax is in effect, shall file the return hereinabove required and pay the tax to the tax collector, within fifteen (15) days after discontinuing business or ceasing operations.

4. The failure of any employer to deduct the tax shall not relieve the employee from the duty to file a return and pay the tax. Any employer who fails to deduct the tax as required by this section,

or who fails to pay such tax to the collector, shall be liable for such tax in full, as though the tax had originally been levied against such employer.

5. As to employees who present official receipts evidencing prior payment of the tax imposed hereby either directly or by collection through employers, the employer shall not deduct the tax but shall maintain adequate records concerning such employees.

6. Employers within the Borough shall not withhold the tax from any person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. (Ord. 2007-12-01, 12/10/07)

§506. Direct Payment by Taxpayers. Every taxpayer who is self-employed or whose tax for any other reason is not collected under §504 of this ordinance shall file a return on a form prescribed by the tax collector and shall pay the tax directly to said collector. Each such taxpayer who first becomes subject to the tax after the effective date of this ordinance, and on or before March 31 of the current tax year, shall file the return and pay the tax on or before April 30 of the current tax year, and each such taxpayer who first becomes subject to the tax after March 31 of the current tax year, shall file the return and pay the tax on or before July 31 or October 31 of the current tax year, or January 31 of the following year, whichever of such payment dates first occurs at least thirty (30) days after the taxpayer becomes subject to the tax. (Ord. 2007-12-01, 12/10/07)

§507. Non-resident Taxpayers. Both residents and non-resident taxpayers shall, by virtue of engaging in an occupation within the Borough of Everett, be subject to the tax and the provisions of this ordinance. (Ord. 2007-12-01, 12/10/07)

§508. Administration and Enforcement. The tax collector shall collect and receive the taxes, interests, fines and penalties imposed by this ordinance, and shall maintain records showing the amounts received and the dates such amounts were received. The tax collector shall prescribe and issue all forms necessary for the administration of the tax and may adopt and enforce regulations relating to any matter pertaining to the administration of this ordinance. The tax collector may examine the records of any employer and/or supposed employer or of any taxpayer in order to ascertain the tax due or verify the accuracy of any return. Every employer or supposed employer and every taxpayer or supposed taxpayer shall give the tax collector all means, facilities and opportunity for the examinations hereby authorized. (Ord. 2007-12-01, 12/10/07)

§509. Collection. The tax collector shall collect by suit or otherwise, all taxes, interests, costs, fines and penalties due under this ordinance and unpaid. If for any reason any tax is not paid when due, interest at the rate of six (6%) percent per year on the amount of unpaid taxes and an additional penalty of one-half of one percent (1/2 of 1%) of the amount of the unpaid tax, for each month or fraction of month during which the tax remains unpaid shall be added and collected. Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection and attorney's fees incurred by the Borough of Everett, as well as for

interest and penalties. The tax collector may accept payment under protest of the tax claimed by the Borough of Everett in any case where any person disputes the Borough of Everett's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the tax collector, the tax collector shall refund the amount of the overpayment to the person who paid under protest. Any action instituted for such judicial determination shall be instituted within two (2) years of the last day of the period for which the tax is disputed or claim made. All refunds shall be made in conformity with the procedure prescribed by the Borough of Everett. (Ord. 2007-12-01, 12/10/07)

§510. Penalties. An employer or taxpayer who makes a false or untrue statement on any return required by this ordinance, who refuses inspection of his records in his custody and control setting forth his employees subject to this tax, who fails or refuses to file a return required by this ordinance, or who violates any other provisions of this ordinance, shall, upon conviction thereof, be sentenced to pay a fine not more than six hundred (\$600.00) dollars, and in default of payment, to imprisonment for a term not to exceed thirty (30) days. (Ord. 2007-12-01, 12/10/07)

§511. Severability. If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Council of the Borough of Everett that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 2007-12-01, 12/10/07)

§512. Effective Date. This amended ordinance shall become effective on January 1, 2008 and shall continue on a calendar year basis, thereafter, without annual reenactment. (Ord. 2007-12-01, 12/10/07)