

CHAPTER 24
TAXATION, SPECIAL

Part 1

Per Capita Tax

- §24-101. Authority for Enactment**
- §24-102. "Resident" Defined**
- §24-103. Imposition of Tax**
- §24-104. Collection**

Part 2

Realty Transfer Tax

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

Part 3

Earned Income Tax

- §24-301. Short Title**
- §24-302. Definitions**
- §24-303. Imposition of Tax**
- §24-304. Exemption from Tax**
- §24-305. Individual Tax Returns and Payments**

TAXATION, SPECIAL

- §24-306. Employer Withholding, Remittance, and Tax Returns**
- §24-307. Tax Collector**
- §24-308. Interest, Penalties, Costs, and Fines**
- §24-309. Purpose; Amendment and Restatement; Repeal**

Part 4

Local Services Tax

- §24-401. Short Title and Authority**
- §24-402. Definitions**
- §24-403. Imposition of Tax; Regulations**
- §24-404. Exemptions**
- §24-405. Individuals Who Engage in an Occupation in Multiple Jurisdictions or Have Multiple Employers**
- §24-406. Duties of Employers**
- §24-407. Self-Employed Individuals**
- §24-408. Nonresident Taxpayers**
- §24-409. Powers and Duties of Tax Collector**
- §24-410. Interest, Penalties, Costs and Fines**
- §24-411. Appointment of Tax Collector; Agreement**
- §24-412. Severability**
- §24-413. Repealer; Effect on Existing Provisions**
- §24-414. Effective Date**
- §24-415. Adoption**

Part 1

Per Capita Tax

§24-101. Authority for Enactment.

This Part is enacted under authority of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 53 P.S. §§6901 et seq. (1982) as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania. (Ord. 7, 3/4/1964; as revised by Ord. 1989-2, 6/5/1989)

§24-102. "Resident" Defined.

The word "resident" as used in this Part shall mean every adult 18 years or older who lives within the Township of Earl. (Ord. 7, 3/4/1964; as revised by Ord. 1989-2, 6/5/1989)

§24-103. Imposition of Tax.

Every resident shall pay five dollars \$5 for the present calendar year and each year thereafter. (Ord. 7, 3/4/1964; as revised by Ord. 1989-2, 6/5/1989)

§24-104. Collection.

All taxes, interests, costs and penalties imposed by this ordinance shall be collected by the Township tax collector. (Ord. 7, 3/4/1964; as revised by Ord. 1989-2, 6/5/1989)



Part 2

Realty Transfer Tax

§24-201. Short Title.

This Part 2 shall be known as the "Earl Township Realty Transfer Tax Ordinance." (Ord. 5-1986, 12/2/1986, §1)

§24-202. Authority.

This realty transfer tax is levied under authority of Article XI-D, entitled "Local Real Estate Transfer Tax," or the Pennsylvania Real Estate Transfer Tax Act, which is a new Article added by Act 77-1986 (Act of July 2, 1986, No. 77) to the Pennsylvania Real Estate Transfer Tax Act, Act 14-1981 (Act of May 5, 1981, No. 14 P.L. 36) as amended. The Pennsylvania Real Transfer Tax Act is codified at 72 P.S. §8101-C et seq., and Article XI-D is codified at 72 P.S. §8101-D et seq. This realty transfer tax is also levied under authority of "The Local Tax Enabling Act," (Act of December 31, 1965, P.L. 1257 as amended.) (Ord. 5-1986, 12/2/1986, §2)

§24-203. Definitions.

The following words when used in this Part 2 shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ASSOCIATION — a partnership, limited partnership, or any other form of unincorporated enterprise owned or conducted by two or more persons.

COLLECTOR — the Recorder of Deeds of Lancaster County, Pennsylvania, is hereby appointed the collector of the tax levied by this Part 2.

CORPORATION — a corporation, joint-stock association, business trust or banking institution which is organized under the laws of the Commonwealth of Pennsylvania, 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 within the Township, 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 such consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public util-

TAXATION, SPECIAL

ity easement. "Document" shall also include a declaration of acquisition required to be presented for recording under §24-109 of this Part 2.

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:

- (1) recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
- (2) 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;
- (3) fur farming;
- (4) stockyard and slaughterhouse operations; or
- (5) manufacturing or processing operation 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, and ancestors or 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.

PERSON — every natural person, association, corporation, or entity of any kind. 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 —

- (1) any lands, tenements or hereditaments, including without limitation buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper and lower boundaries, trees, and other improvements, immovables or interest which, by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.
- (2) a condominium unit.
- (3) 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 35 or fewer persons and which:

- (1) derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or
- (2) 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.

REAL ESTATE TRANSACTION — the making, executing, delivering, accepting, or presenting for recording of a document.

TOWNSHIP — Earl Township.

TITLE TO REAL ESTATE —

- (1) 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
- (2) 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. 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.

VALUE —

- (1) 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 the document shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract or sale.
- (2) In the case of a gift, sale by execution upon a judgment or upon foreclosure of a mortgage by a judicial officer, transactions without consideration or for

TAXATION, SPECIAL

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, value shall be the actual monetary worth of the real estate within the Township, determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio or assessed values to market values of the taxing district in which the Township is located as established by the State Tax Equalization Board, or a commensurate part of the assessment where the assessment includes other real estate.

- (3) In the case of an easement or other interest in real estate the value of which is not determinable under clause (1) or (2), the actual monetary worth of such interest.
- (4) 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 principal of the grantor or a related corporation, association or partnership and the grantee existing before or effective with the transfer.

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

(Ord. 5-1986, 12/2/1986, §3)

§24-204. Imposition of Tax.

A tax is hereby levied and imposed, for general township purposes, on every real estate transaction, at the rate of 1% of the value of the real estate represented by the document involved in every real estate transaction.

1. The tax shall be payable at the earlier of the time the document is presented for recording, within 30 days of acceptance of the document, or within 30 days of becoming an acquired company.
2. If the real estate is located partially within and partially outside the Township, the tax shall be calculated on the value of the portion within the Township.
3. The tax imposed hereunder shall be due and payable to the collector, as a joint and several liability, by 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. In the case of an acquired company, the company shall also have liability for payment of the tax. All such persons shall also be liable for any penalties imposed under this Part 2.

4. It is the intent of this Part 2 that the entire burden of the tax imposed on a real estate transaction by the Township and other political subdivisions shall not exceed the limitations prescribed in §208 of the Local Tax Enabling Act, 53 P.S. §6908, so that if any other political subdivision imposes a tax on real estate transactions taxed under this Part 2, the provisions of said §208 shall apply.

(Ord. 5-1986, 12/2/1986, §4)

§24-205. Evidence of Payment.

The payment of the tax imposed hereunder shall be evidenced by the collector affixing on the document an official stamp or writing setting forth the date of payment of the tax and amount of tax paid. (Ord. 5-1986, 12/2/1986, §5)

§24-206. Exempt Parties.

The United States, the Commonwealth of Pennsylvania, 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 third party to a real estate transaction from the liability for the tax. (Ord. 5-1986, 12/2/1986, §6)

§24-207. Excluded Transactions.

The tax imposed by this Part 2 shall not be imposed upon:

1. A transfer to the Commonwealth of Pennsylvania, 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.
2. A document which the Township is prohibited from taxing under the Constitution or statutes of the United States.
3. 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.
4. 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.

TAXATION, SPECIAL

5. 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.
6. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister; and between grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.
7. A transfer for no 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.
8. A transfer for no 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 collector is presented with a copy of the trust instrument that clearly identified the grantor and all possible beneficiaries.
9. A transfer for no or nominal consideration from a trustee to a beneficiary of an ordinary trust.
10. A transfer for no or nominal actual consideration from a trustee to successor trustee.
11. A transfer:
 - A. For no or nominal actual consideration between principal and agent or straw party; or
 - B. From or to an agent or straw party were, if the agent or straw party were his principal, no tax would be imposed under this Part. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this subsection.
12. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the Township

- reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.
13. A transfer from a corporation or association of real estate held or 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 years.
 14. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee so that agency or authority as security for a debt of the grantee, or transfer to a nonprofit industrial development agency or authority.
 15. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if;
 - A. The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conservation, energy production, pollution control, warehousing or agriculture; and
 - B. The agency or authority has the full ownership interest in the real estate transferred.
 16. 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.
 17. 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 transfer or for commercial purposes.
 18. A transfer to a conservancy which possesses tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1954 and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
 19. 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.
 20. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
 21. A transaction wherein the tax due is \$1 or less.

TAXATION, SPECIAL

22. 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. 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 2.

(Ord. 5-1986, 12/2/1986, §7)

§24-208. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in §24-207, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders thereof are fully taxable. For the purposes of this Part 2, corporations and associations are entities separate from their members, partners, stockholders or shareholders. (Ord. 5-1986, 12/2/1986, §8)

§24-209. 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
 - A. Does not affect the continuity of the company; and
 - B. 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 three 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, 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 to the collector for recording and for the affixation of the official stamp or writing evidencing payment of the tax. Such declaration shall set forth the value of real estate holdings of the acquired company in the Township.

(Ord. 5-1986, 12/2/1986, §9)

§24-210. 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 transfer to him shall be given to him toward the tax due upon the transfer.
2. When there is a transfer by a builder of residential property which as 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 of tax due, no refund or carryover credit shall be allowed.

(Ord. 5-1986, 12/2/1986, §10)

§24-211. Statement of Value.

1. Every document lodged with or presented to the collector for recording shall set forth therein and as 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. The provisions of this section shall not apply to an excludable real estate transfers which are exempt from taxation based on family relationship, provided the relationship is specified in the deed, instrument or writing.
2. Documents which are not to be recorded shall be presented to the collector and shall be accompanied by a certified copy of the document and 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 2. Evidence of payment shall be affixed to the original document and the certified copy. The certified copy and statement of value shall be filed with the collector.

TAXATION, SPECIAL

(Ord. 5-1986, 12/2/1986, §11)

§24-212. Unlawful Acts.

1. It shall be unlawful for any person to:
 - A. Make, execute, deliver, accept, or present for recording or cause to be made, executed, delivered, accepted, or presented for recording any document without the full amount of tax thereon being duly paid;
 - B. Fail to record a declaration of acquisition, as required by this Part 2;
 - C. Fraudulently affix to any document, any forged evidence of payment; or
 - D. Fail, neglect or refuse to comply with or violate other provisions of this Part 2 or any rules and regulations promulgated by the Township under this Part 2, or any rules and regulations of the Pennsylvania Department of Revenue to the extent applicable to the tax levied hereunder.
2. Any person violating any of the provisions of this §24-212 shall be guilty of a summary offense.
3. A person who makes a false statement of value or declaration of acquisition, when he does not believe the statement of declaration to be true, is guilty of a misdemeanor of the second degree.

(Ord. 5-1986, 12/2/1986, §12)

§24-213. Civil Penalties.

1. If any tax owing under the terms of this Part 2 shall not be paid when due, 10% of the amount of the tax shall be added and collected as an initial penalty for non-payment or underpayment of the tax.
2. In addition, if any tax owing under the terms of this Part 2 shall not be paid when due, a penalty shall accrue on the amount of the unpaid tax at the rate of 1% per month or fractional part of a month, on the amount of the unpaid tax, from the due date until the amount of the tax is paid in full.
3. In addition, in the case of failure of any acquired company to record a declaration of acquisition, as required by this Part 2, unless it is shown to the satisfaction of the Township that such failure is due to reasonable cause, a penalty shall accrue on the amount of the unpaid tax at the rate of 5% per month or fractional part of a month, on the amount of the unpaid tax, from the due date until the amount of

the tax is paid in full. This penalty shall be in addition to all other penalties, but shall not in the aggregate exceed 50% of the amount of the unpaid tax.

4. In addition, if any part of any underpayment of tax is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
5. In addition, if the Township files suit in order to collect the amount of any tax not paid when due under this Part 2, at the discretion of the court, any person liable for payment of the tax shall also be liable for reasonable attorney's fees incurred by the Township in prosecution of this suit.
6. No document upon which tax is imposed by this Part 2 shall at any time be made the basis of any action or other legal proceeding, nor shall proof thereof be offered or received in evidence in any court of this Commonwealth, or recorded in the office of any Recorder of Deeds of any county of this Commonwealth, unless the tax imposed hereunder shall have been paid in full and evidence of payment shall have been affixed thereto by the collector.

(Ord. 5-1986, 12/2/1986, §13)

§24-214. Lien.

The tax imposed by this Part 2, together with all penalties, shall be a lien against the real estate to which the document relates and, in the case of an acquired company, the real estate owned by the acquired company. The lien shall date from the time when the tax is due and payable and shall continue until discharged by payment in full of the tax, together with all penalties. In order to enforce the lien, the Township may proceed under the Municipal Claims and Liens Act of 1923, P.S. §7101 et seq., or in any other appropriate manner. (Ord. 5-1986, 12/2/1986, §14)

§24-215. Proceeds of Judicial Sale.

The tax imposed under this Part 2 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, and the sheriff, or other officer, conducting said sale shall pay the tax herein imposed out of the first monies 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. 5-1986, 12/2/1986, §15)

§24-216. Enforcement.

1. In order to determine whether the proper amount of tax has been paid, without limiting any other rights of the Township, the Township shall have the right to review all documents or records relating to any real estate transaction or any re-

TAXATION, SPECIAL

lated transactions, and to take such other steps as the Township shall deem necessary or appropriate, including a review or audit of any documents or records of any party to a real estate transaction to determine the fair market value of the real estate or any other relevant matter as determined by the Township. Upon request of the Township, and at such place and time as specified by the Township, any party shall make available to the Township any documents or records requested by the Township.

2. In the event any tax is not paid when due, the Township may enforce payment of the tax, together with all penalties, by suit in assumpsit or any other appropriate means.

(Ord. 5-1986, 12/2/1986, §16)

§24-217. Collector.

1. As provided for in 16 P.S. §11011-6, the recorder of deeds shall be the collection agent for this tax, without compensation from the Township.
2. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the collector shall not accept for recording any document unless it is accompanied by a statement of value showing what taxes are due each political subdivision.
3. On or before the 10th day of each month, the collector shall pay over to the Township all taxes collected under this Part, less 2% for use of the county, and shall also provide a report containing the information 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. In accordance with Act 77-1986, any recorder of deeds who shall record any document upon which tax is imposed under this Part 2 without payment of tax as required under this Part 2, as is indicated in the document or accompanying statement of value shall, upon summary conviction, be sentenced to pay a fine of \$50 and costs of prosecution.

(Ord. 5-1986, 12/2/1986, §17)

Part 3

Earned Income Tax

§24-301. Short Title.

This Part shall be known and may be cited as the Earl Township Earned Income Tax Ordinance.

(Ord. 2011-03, 11/7/2011)

§24-302. Definitions.

All terms defined in the Local Tax Enabling Act shall have the meanings set forth therein. The following terms shall have the meanings set forth herein:

COLLECTOR — the person or entity appointed as tax officer pursuant to the Local Tax Enabling Act to collect the tax.

EFFECTIVE DATE — January 1, 2012.

ENACTMENT — this Part.

GOVERNING BODY — the Township of Earl, Lancaster County, Pennsylvania.

LOCAL TAX ENABLING ACT — the Local Tax Enabling Act, as set forth in 53 P.S. §6901 et seq. while such numbering and provisions remain in effect under Act 32 of 2008, and as set forth in 53 P.S. §6924.101 et seq. when such numbering and provisions become effective under Act 32, and as amended in the future.

TAX — the tax imposed by this enactment.

TAXING AUTHORITY — the Township of Earl, Lancaster County, Pennsylvania.

TAX RETURN — a form prescribed by the Collector for reporting the amount of tax or other amount owed or required to be withheld, remitted, or reported under this enactment or the Local Tax Enabling Act.

TAX YEAR — the period from January 1 to December 31.

TCC — the Tax Collection Committee established to govern and oversee the collection of earned income tax within the TCD under the Local Tax Enabling Act.

TCD — any tax collection district to which the taxing authority or any part of the taxing authority is assigned under the Local Tax Enabling Act.

TAXATION, SPECIAL

(Ord. 2011-03, 11/7/2011)

§24-303. Imposition of Tax.

1. **General Purpose Resident Tax.** The taxing authority hereby imposes a tax for general revenue purposes at the rate of 1% on earned income and net profits of individual residents of the taxing authority.
2. **On-Going Tax.** The tax shall continue at the above rate during the current tax year and each tax year thereafter, without annual reenactment, until this enactment is repealed or the rate is changed.
3. **Local Tax Enabling Act Applicable.** The tax is imposed under authority of the Local Tax Enabling Act, and all provisions thereof that relate to a tax on earned income or net profits are incorporated into this enactment. Any future amendments to the Local Tax Enabling Act that are required to be applied to a tax on earned income or net profits will automatically become part of this enactment upon the effective date of such amendment, without the need for formal amendment of this enactment, to the maximum extent allowed by 1 Pa.C.S.A. §1937.
4. **Applicable Laws, Regulations, Policies, and Procedures.** The tax shall be collected and administered in accordance with: (1) all applicable laws and regulations; and (2) regulations, policies and procedures adopted by the TCC or by the Collector. This includes any regulations, policies, and procedures adopted in the future to the maximum extent allowed by 1 Pa.C.S.A. §1937.

(Ord. 2011-03, 11/7/2011)

§24-304. Exemption from Tax.

This governing body finds that: (1) minors of various age groups have traditionally, and with judicial sanction, been considered as comprising separate classes for many legislative purposes; and (2) minors under the age of 16 are generally unemancipated and subject to compulsory school attendance and child labor laws and, therefore, have limited earned income and net profits and control of money such that enforcement of reporting and collection of tax hereunder against them would yield inconsequential amounts and be unduly difficult, expensive, and not in the public interest. For these reasons, individuals under the age of 16 years are exempt from liability for the tax.

(Ord. 2011-03, 11/7/2011)

§24-305. Individual Tax Returns and Payments.

Every individual receiving earned income or earning net profits in any tax year shall file tax returns and pay tax in accordance with the Local Tax Enabling Act.

(Ord. 2011-03, 11/7/2011)

§24-306. Employer Withholding, Remittance, and Tax Returns.

Every employer shall register, withhold and remit tax, and file tax returns in accordance with the Local Tax Enabling Act.

(Ord. 2011-03, 11/7/2011)

§24-307. Tax Collector.

The tax will be collected from individuals and employers by the Collector.

(Ord. 2011-03, 11/7/2011)

§24-308. Interest, Penalties, Costs, and Fines.

Individuals and employers are subject to interest, penalties, costs, and fines in accordance with the Local Tax Enabling Act, including costs imposed by the Collector in accordance with the Local Tax Enabling Act.

(Ord. 2011-03, 11/7/2011)

§24-309. Purpose/Amendment and Restatement/Repeal.

The primary purpose of this enactment is to conform the earned income and net profits tax currently imposed to the Local Tax Enabling Act, as amended and restated by Act 32 of 2008, and to do so within the time frame required by Act 32. Any prior enactment imposing a tax on earned income or net profits of individuals is amended and restated in its entirety to read as stated in this enactment. Any other prior enactment or part of any prior enactment conflicting with the provisions of this enactment is rescinded insofar as the conflict exists. To the extent the same as any enactment in force immediately prior to adoption of this enactment, the provisions of this enactment are intended as a continuation of such prior enactment and not as a new enactment. If this enactment is declared invalid, any prior enactment levying a similar tax shall remain in full force and effect and shall not be affected by adoption of this enactment. If any part of this enactment is declared invalid, the similar part of any prior enactment levying a similar tax shall remain in effect and shall not be affected by adoption of this enactment. The provisions of this enactment shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish offense under the authority of any enactment in force prior to adoption of this enactment. Subject to the foregoing provisions of this Section, this en-

TAXATION, SPECIAL

actment shall amend and restate, on the effective date, any enactment levying a tax on earned income or net profits in force immediately prior to the effective date.

(Ord. 2011-03, 11/7/2011)

Part 4

Local Services Tax

§24-401. Short Title and Authority.

This Part 4 shall be known and may be cited as the "Earl Township Local Services Tax Ordinance." This Part 4 is enacted under the authority of the Local Tax Enabling Act, 53 P.S. §6901 et seq., and continues and redesignates the emergency and municipal services tax pursuant to Act 7 of 2007.

(Ord. 2007-07, 12/3/2007)

§24-402. Definitions.

1. The following words and phrases, when used in this Part, shall have the meanings ascribed to them in the section, unless the context clearly indicates a different meaning:

COLLECTOR — the person or persons appointed by this Part 4 or by subsequent enactment of the governing body, to collect the tax imposed by this Part.

COMPENSATION — salary, wages, commissions, tips, bonuses, fees or any other payment or income.

EARNED INCOME and **NET PROFITS** — shall have the meanings as set forth in the enabling act, 53 P.S. §6913.

EFFECTIVE DATE — January 1, 2008.

EMPLOYEE — an individual paid compensation by an employer to perform an occupation of any kind.

EMPLOYER — any individual, partnership, limited partnership, unincorporated association, institution, trust, corporation, government agency, or other entity engaged in business or operating within the taxing authority, employing one or more individuals engaged in an occupation.

ENABLING ACT — the Local Tax Enabling Act, 53 P.S. §6901 et seq., and as amended in the future.

ENACTMENT — this Part 4.

GOVERNING BODY — the Board of Supervisors of Earl Township.

TAXATION, SPECIAL

OCCUPATION — any work, job, activity, livelihood, trade, profession, business or enterprise of any kind.

REGULATIONS — regulations duly adopted by the collector for administration of the tax. To the extent allowed by law, including but not limited to 1 Pa.C.S.A. §1937, the governing body intends to incorporate future amendments to the regulations. If a court prohibits such construction, the governing body intends to incorporate the regulations as they exist on the date of adoption of this Part 4. A copy of the regulations currently in force shall be available for public inspection.

TAX — the tax imposed by this Part 4.

TAXING AUTHORITY — Earl Township.

TAXPAYER — any individual on whom the tax is imposed.

TAX RETURN — a form prescribed by the collector for reporting the amount of any tax deducted for an employee or otherwise owed under this Part.

TAX YEAR — the period from January 1 to December 31.

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

(Ord. 2007-07, 12/3/2007)

§24-403. Imposition of Tax; Regulations.

1. The taxing authority hereby imposes a tax of \$52 on each individual who engages in an occupation within the boundaries of the taxing authority. Earl Township will retain \$42 and Eastern Lancaster County School District will retain \$10 of the tax imposed, previously known as the "occupational privilege tax," on each person engaged in an occupation within Earl Township. The tax is imposed for the tax year starting on the effective date and ending on the next December 31. The tax is imposed for each tax year thereafter without annual reenactment, until this Part is repealed or amended.
2. The tax is based on an individual engaging in an occupation within the taxing authority at any time during the tax year and shall be known as the "local services tax" or the "occupational privilege tax." The enabling act, as amended by Act 7 of 2007, has denominated any occupational privilege tax as a local services tax.
3. All provisions of the enabling act imposing requirements applicable to a local services tax and all provisions of the regulations are incorporated into this Part 4. If there is any discrepancy between the regulations and the enabling act, or this Part 4 and the enabling act, the provisions of the enabling act shall control.

4. The tax is imposed and proceeds of the tax shall be used in accordance with all applicable requirements of the enabling act.

(Ord. 2007-07, 12/3/2007)

§24-404. Exemptions.

1. An individual whose total earned income and net profits from all sources within the taxing authority in any tax year is less than \$12,000 is exempt from the tax for the tax year.
2. Individuals may also be exempt for other reasons, including disability resulting from serving in the armed forces, active duty as a member of a reserve component of the armed forces, and other reasons as set forth in the regulations.
3. An individual may obtain exemption prospectively by filing a local services tax exemption certificate on a form provided by the collector in accordance with the regulations. The exemption certificate shall be filed with the collector and, if the individual is an employee, also with the individual's employer.
4. If an individual pays the tax and at the end of any tax year has total income during the tax year that is less than the income exemption amount, or otherwise qualifies for an exemption, the taxing authority will, on request after the end of tax year, refund to the taxpayer the tax paid for the tax year.

(Ord. 2007-07, 12/3/2007)

§24-405. Individuals Who Engage in an Occupation in Multiple Jurisdictions or Have Multiple Employers.

Rules applicable to individuals who engage in an occupation in multiple jurisdictions or have multiple employers are as set forth in the regulations.

(Ord. 2007-07, 12/3/2007)

§24-406. Duties of Employers.

1. Every employer not registered under the provisions of an enactment of the taxing authority imposing a tax on earned income and net profits shall, within 30 days after the effective date, or within 30 days after first becoming an employer, register with the collector the employer's name, address and any other information required by the collector on an employer registration form prescribed by the collector.

TAXATION, SPECIAL

2. Every employer is required to deduct the tax as set forth in the regulations from any compensation payable to any employee on whom the tax is imposed, unless the employee has filed a local services tax withholding exemption certificate in accordance with the regulations. As set forth in the regulations, the full amount of the tax shall be deducted in lump sum if the combined municipal and school district tax rate is \$10 or less. As set forth in the regulations, the tax shall be deducted pro rata on a per-payroll basis if the combined municipal and school district tax rate exceeds \$10.
3. As set forth in the regulations, no employee is required to pay tax through more than one employer during any payroll period.
4. An employer is excused from withholding to the extent provided in the regulations if the employee has filed a local services tax withholding exemption certificate in accordance with the regulations. The exemption certificate may provide exemption from withholding based on:
 - A. Low income or other exemption from tax as stated in the regulations;
 - B. Withholding by another principal employer;
 - C. Prior payment to the taxing authority of the full amount of the tax imposed by the taxing authority; or
 - D. Prior payment during the same tax year of \$52 as a tax imposed under the enabling act on an individual based on engaging in an occupation in Pennsylvania.
5. If an employee has filed a local services tax withholding exemption certificate and it is determined, as set forth in the regulations, that the employee is not eligible for exemption or is no longer eligible for exemption, the employer shall start or re-start withholding as set forth in the regulations.
6. As to each taxpayer employed at any time after the effective date and on or before March 31, every employer shall deduct the tax from compensation payable to the taxpayer as set forth in the regulations and shall file a tax return and pay to the collector, on or before April 30, the amount of tax deducted on or before March 31. As to each taxpayer for whom the full amount of the tax has not previously been deducted or paid directly by the taxpayer to the collector, who is employed at any time in any of the three-month periods ending June 30, September 30, and December 31, every employer shall deduct the tax from compensation payable to the taxpayer as set forth in the regulations and shall file a tax return and pay the tax to the collector on or before the following July 30, September 30, and December 31, respectively. Every employer shall follow this same procedure in every tax year.
7. Tax amounts deducted from compensation by an employer shall at all times be the property of the taxing authority and shall constitute a trust fund held by the em-

ployer until remitted to the collector; and deduction of tax from wages shall, as between the employee and the taxing authority, constitute payment of the tax by the employee, regardless of any insolvency or failure to remit by the employer.

8. Any employer who fails to deduct the tax or who fails to pay the tax to the collector shall be liable for the tax and applicable penalties in full as though the tax had originally been imposed against such employer. If the employer is a partnership, the partners thereof, and if the employer is a corporation, limited liability company, or other organization or entity, all officers thereof, and any other person responsible for payment of taxes, shall have the same liability as the employer.

(Ord. 2007-07, 12/3/2007)

§24-407. Self-Employed Individuals.

Every individual who is self-employed, or whose tax for any other reason is not deducted by an employer under §24-406 of this Part, shall file a tax return and pay the tax directly to the collector. Except as otherwise stated in the regulations, every such individual engaged in an occupation within the taxing authority at any time after the effective date and on or before March 31 shall file a tax return and pay the full amount of the tax to the collector on or before April 30. Except as otherwise stated in the regulations, every such individual who has not previously paid the full amount of the tax, who engages in an occupation within the taxing authority at any time in any of the three-month periods ending June 30, September 30, and December 31, shall file a tax return and pay the full amount of the tax to the collector on or before the following July 30, October 30, and January 30, respectively. Every individual who is self-employed, or whose tax for any other reason is not deducted by an employer under §24-406 of this Part, shall follow this same procedure in every tax year.

(Ord. 2007-07, 12/3/2007)

§24-408. Nonresident Taxpayers.

By virtue of engaging in an occupation within the taxing authority, both resident and nonresident individuals are subject to the tax.

(Ord. 2007-07, 12/3/2007)

§24-409. Powers and Duties of Tax Collector.

1. The collector shall collect the tax, fines and penalties imposed by this Part and shall keep a record of collection.
2. The collector may examine the books, papers, and records of any individual or employer in order to verify compliance with this Part. Every individual the collec-

TAXATION, SPECIAL

tor believes might be an employer shall, on request, meet with and show to the collector all books, papers, and records at the employer's place of business and provide a place for the collector's review of such books, papers, and records. For purposes of this Part, records shall include records in any form, including computer and other electronic records.

3. The collector may file suit in its name or in the name of the taxing authority for recovery of any amount owed to the taxing authority.
4. Except as limited by any applicable law, the collector shall have all of the powers that the taxing authority has or that the law prescribes for tax collectors relating to administration and enforcement of this Part.
5. The collector may promulgate and enforce regulations relating to administration and enforcement of this Part.

(Ord. 2007-07, 12/3/2007)

§24-410. Interest, Penalties, Costs and Fines.

1. If any tax is not paid when due, the following penalty shall apply: a penalty of 5% of the amount unpaid for each month or fraction of a month during which the amount remains unpaid.
2. Any individual or entity who or which fails or refuses to pay the tax or other amounts owed or to pay tax deducted from employees shall, in addition to paying the amount owed, pay reasonable costs incurred, as set forth in the regulations, by the taxing authority, collector, or any other person or entity appointed to collect the amount, to provide notices of delinquency or to implement similar procedures to collect delinquent taxes.
3. If legal proceedings are commenced for failure to pay any amount owed, the person or entity liable therefor shall, in addition to the amount owed, pay to the taxing authority, collector, or any other person or entity appointed to collect the tax the cost of collection, including reasonable attorney fees.
4. Any individual or entity who or which fails or refuses to file any employer registration form or tax return required by this Part or the regulations, who or which fails or refuses to pay the tax or other amounts owed or to pay tax deducted from employees, or who or which makes any incomplete, false or fraudulent filing or return shall, upon conviction thereof before any District Justice or Magistrate, 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, be subject to imprisonment for a period not exceeding 30 days. If an employer is a partnership, the partners thereof, and if an employer is a corporation, limited liability company, or other organization or entity, all officers thereof, and any other person responsible for payment of taxes, shall be subject to prosecution under this section as the employer.

5. The failure of any individual or entity to receive or procure forms required for making a required filing or return shall not excuse making a filing or return.

(Ord. 2007-07, 12/3/2007)

§24-411. Appointment of Tax Collector; Agreement.

The Lancaster County Tax Collection Bureau, also doing business as Middletown Area Tax Collection Bureau, is appointed collector according to the terms of a tax collection agreement as presented this date or previously executed. The officers of this taxing authority are authorized to take any action necessary or appropriate to carry out the terms of this Part 4 and the tax collection agreement.

(Ord. 2007-07, 12/3/2007)

§24-412. Severability.

The provisions of this Part are severable; and if any of its provisions are ruled by a court invalid or unconstitutional, such decision shall not affect or impair any of the remaining provisions of this Part. It is declared to be the intention of the governing body that this Part would have been adopted if such invalid or unconstitutional provision had not been included.

(Ord. 2007-07, 12/3/2007)

§24-413. Repealer; Effect on Existing Provisions.

Any prior enactment or part of any prior enactment conflicting with the provisions of this Part is rescinded insofar as the conflict exists. So far as they are the same as enactments in force immediately to the adoption of this Part, the provisions of this Part are intended as a continuation of such prior enactment and not as new enactment. If this Part is declared invalid, any prior enactment levying a similar tax shall remain in full force and effect and shall not be affected in any manner by adoption of this Part. The provisions of this Part shall not affect any act done or liability incurred, nor shall they affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish any offense under the authority of any enactment in force prior to the adoption of this Part. Subject to the foregoing provisions of this section, this Part shall supersede and repeal on the effective date any enactments levying an occupational privilege tax in force immediately prior to the effective date.

(Ord. 2007-07, 12/3/2007)

TAXATION, SPECIAL

§24-414. Effective Date.

This Part shall take effect and be in force on January 1, 2008.

(Ord. 2007-07, 12/3/2007)

§24-415. Adoption.

This Part 4 is adopted and enacted on this third day of December, 2007, by the Board of Supervisors of Earl Township, Lancaster County, Pennsylvania, in lawful session duly assembled.

(Ord. 2007-07, 12/3/2007)