

Chapter 24

Taxation, Special

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

The provisions of §13 of the Local Tax Enabling Act (Act 511 of 1965), 53 P.S. §6913, its supplements and amendments, are incorporated herein by reference, except that where options are provided in said §13, this Part designates the option selected, and except as and where hereinafter specifically provided otherwise.

(Res. 1/6/1975, §1)

§24-102. Imposition of Tax.

A tax for general revenue purposes in the amount of ½ percent is hereby imposed on earned income and net profits earned by residents of Troy Borough during the taxable period beginning on the February 6, 1975, and continuing for each taxable year thereafter.

(Res. 1/6/1975, §2)

§24-103. Declaration, Return and Payment of Tax.

1. *Net Profits.* Every taxpayer making net profits in any year succeeding 1975 shall file a declaration of his estimated net profits for the current year and shall pay the tax due thereon in quarterly installments and shall file a final return and pay to the officer the balance of the tax due, all as provided in §13(III)(A)(1) of the Local Tax Enabling Act.

2. *Earned Income.*

A. For years succeeding the year 1975, every taxpayer shall make and file final returns and pay the taxes due, all as provided in §13(III)(B), first paragraph, of the Local Tax Enabling, its supplements and amendments.

B. *Quarterly Returns.* Every taxpayer who is employed for a salary, wage 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 quarterly returns and shall pay quarter-annually the amount of tax shown as due on such returns, all as provided in §13(III)(B) (2) of the Local Tax Enabling Act, its supplements and amendments,

(Res. 1/6/1975, §3; as amended by Ord. 80-2, 7/21/1980, §3-2113)

§24-104. Collection at Source.

Every employer having an office, factory, workshop, branch, warehouse or other place of business within the geographical limits of Troy Borough shall deduct the tax imposed by this Part on the earned income due to his employee or employees, and shall file quarterly returns and final returns and pay quarterly to the officer the amount of taxes deducted, all as set forth in §13, IV, of said Local Tax Enabling Act, its supplements and amendments.

(Res. 1/6/1975, §4)

§24-105. Administration.

1. The income tax officer shall be selected from time to time by resolution of, and shall receive such compensation for his services and expenses, as determined from time to time by Council. Such officer shall have the powers and duties and be subject to the penalties provided in the Local Tax Enabling Act, its supplements and amendments.

2. The Secretary of Troy Borough Council shall be the custodian of the bond required to be given by the income tax officer.

(Res. 1/6/1975, §5)

§24-106. Payment of Tax to Other Political Subdivisions or States as Credit or Deduction; Withholding Tax.

1. Payment of any tax on salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities to a political subdivision by residents thereof pursuant to a resolution or ordinance passed or adopted under the authority of the Local Tax Enabling Act shall be credited to and allowed as a deduction from the liability of such persons for any other like tax respectively on salaries, wages, commissions, other compensation or on net profits of businesses, professions or other activities imposed by this Part. [*Ord. 80-2*]

2. Payment of tax on income of any political subdivision by residents thereof pursuant to a resolution or ordinance passed or adopted under the authority of Local Tax Enabling Act shall, to the extent that such income includes salaries, wages, commission, other compensation or net profits of businesses, professions or other activities, but in such proportion as hereinafter set forth, be credited to and allowed as a deduction from the liability of such persons for any other tax on salaries, wages, commissions, other compensation or on net profits of businesses, professions or other activities imposed under this Part. [*Ord. 80-2*]

3. Payment of any tax on income to any state or to any political subdivision thereof by residents thereof, pursuant to any State or local law shall, to the extent that such income includes salaries, wages, commission or other compensation or net profits of businesses, professions or other activities, but in such proportions as hereinafter set forth, be credited to and allowed as a deduction from the liability of such person for any other tax on salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities imposed under this Part, if residents of Troy Borough receive credits and deductions of a similar kind, to a like degree, from the tax on income imposed by the other state or political subdivisions thereof.

4. Payment of any tax on income to any other state than Pennsylvania or to any political subdivision located outside the boundaries of this Commonwealth by residents of Troy Borough shall, to the extent that such income includes salaries, wages, commissions or other compensation or net profits of businesses, professions or other activities, but in such proportions as hereinafter set forth, be credited to and allowed as a deduction from the liability of such person for any other tax on salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities imposed by this Part.

5. When a credit or a deduction is allowable in any of the several cases hereinafter provided, it shall be allowed in proportion to the concurrent periods for which taxes are imposed by the other state or respective political subdivision, but not

in excess of the amount previously paid for a concurrent period.

(Res. 1/6/1975, §6; as amended by Ord. 80-2, 7/21/1980)

§24-107. Applicability.

The tax imposed in §24-102 of this Part shall not be levied on the net profits of any person, institution or organization as to whom it is beyond the power of Council to impose said tax under the Constitution of the United States of America or the Constitution and laws of the Commonwealth of Pennsylvania.

(Res. 1/6/1975, §8)

§24-108. Collection of Delinquent Earned Income Tax from Employers.

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 spouse 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 presentation of a written notice and demand under oath or affirmation, containing the name of the taxable or the spouse thereof and the amount of the tax due. Upon the presentation of 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 individual employees then owing or that shall within 60 days thereafter become due, or from any unpaid commissions or earnings of any such taxable in its or his possession, a sum sufficient to pay the respective amount of the delinquent earned income taxes and costs, shown upon the written notice or demand, and to pay the same to the officer of Troy Borough within 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 transaction, not exceeding 2 percent of the amount of money so collected and paid over to the officer. Upon the failure of 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, within 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 not paid over together with a penalty of 10 percent added thereto, to be recovered by an action in assumpsit in a suit to be instituted by the officer or by the proper authorities of Troy Borough 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 of law.

(Res. 1/6/1975, §10; as amended by A.O.)

Part 2**Occupation Tax****§24-201. Occupation Tax Levied.**

An occupation tax of 300 mills on the value of all occupations, as assessed on the assessment rolls for Bradford County tax purposes, is hereby levied for general purposes for the year commencing January 1, 1976, upon all persons residing in the Borough of Troy, Bradford County Pennsylvania, 18 years of age or over and made taxable by the laws of the Commonwealth of Pennsylvania for County rates and levies. (*Ord. 12-1970, 12/28/1978, §1; as amended by Ord. 12/10/1975A; and by Ord. 81-4, 12/21/1981, §3-2011*)

§24-202. Other Taxes.

This occupation tax shall be in addition to all other taxes levied by the Borough of Troy.

(*Ord. 12-1970, 12/28/1978, §2*)

§24-203. Collection.

The Borough Secretary shall compute and add the amount of the tax levied hereunder to the tax duplicate furnished to the tax collector. The tax levied and assessed hereunder shall be collected by the tax collector in the same manner as other taxes are collected and shall be subject to the same discount for prompt payment and to the same penalties for nonpayment as provided by law for other taxes.

(*Ord. 12-1970, 12/28/1978, §3*)

§24-204. Collection from Spouse.

Every spouse against whose spouse said occupation tax is levied shall be liable for the payment of said tax. Collection thereof from said spouse may be made and enforced in the manner provided by law for the collection and enforcement of other taxes owing by such spouse, including the collection thereof from the spouse's employer.

(*Ord. 12-1970, 12/28/1978, §4; as amended by A.O.*)

§24-205. Local Tax Enabling Act.

This Part has been adopted by virtue of the Local Tax Enabling Act, No. 511, and the amendments thereto.

(*Ord. 12-1970, 12/28/1978, §5*)

Part 3**Realty Transfer Tax****§24-301. Short Title.**

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

(Ord. 77-7, 5/12/1977; as revised by A.O.)

§24-302. Authority.

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

(Ord. 77-7, 5/12/1977; as revised by A.O.)

§24-303. Definitions.

Association—a partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent's estate.

Borough—the Borough of Troy, Bradford County, Pennsylvania.

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 30 years, or instruments which solely grant, vest or confirm a public utility easement. “Document” shall also include a declaration of acquisition required to be presented for recording under §24-302.

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

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

D. Stockyard and slaughterhouse operations.

E. Manufacturing or processing operations of any kind.

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.

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

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

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

Title to real estate—

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

B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, 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 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

Transaction—the making, executing, delivering, accepting or presenting for recording of a document.

Value—

A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against real estate. Provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale.

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

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

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

(Ord. 77-7, 5/12/1977; as revised by A.O.)

§24-304. Imposition of Tax; Interest.

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1 percent of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder 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. §6924.101 *et seq.*, so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the Borough Council under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter

otherwise provided, be one-half of the rate and such one-half shall become effective without any action on the part of the Borough Council; 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 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. The tax imposed under subsection .1 above and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965, P.L. 1257, No. 511, as amended, known as the "Local Tax Enabling Act"; provided, that if the correct amount of the tax is not paid by the last date prescribed for timely payment, Township, pursuant to §1102-D of the Tax Reform Code of 1971, 72 P.S. §8102-D, authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties.

5. Any tax imposed under subsection .1 that is not paid by the date tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923, P.L. 207, No. 153, 53 P.S. §7101 *et seq.*, as amended, known as the "Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in §806 of the Act of April 9, 1929, P.L. 343, No. 176, 72 P.S. §806, as amended, known as the "Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

(Ord. 77-7, 5/12/1977; as revised by A.O.)

§24-305. Exempt Parties.

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

(Ord. 77-7, 5/12/1977; as revised by A.O.)

§24-306. Excluded Transactions.

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

A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed 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 1 year from the date of condemnation.

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

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

D. A transfer for no or nominal actual consideration which corrects or

confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.

E. A transfer or division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within 1 year shall be subject to tax as if the grantor were making such transfer.

G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.

H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.

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

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

K. A transfer (1) for no or nominal actual consideration between principal and agent or straw party; or (2) 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 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: (1) 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 (2) the agency or authority has the full ownership interest in the real estate transferred.

P. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.

Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.

R. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1986, (68A Stat. 3, 26 U.S.C. §501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75 percent 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 \$1 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.

(Ord. 77-7, 5/12/1977; as revised by A.O.)

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

Except as otherwise provided in §24-306, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this Section, corporations and associations are entities separate from their members, partners, stockholders and shareholders.

(Ord. 77-7, 5/12/1977; as revised by A.O.)

§24-308. Acquired Company.

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90 percent or more of the total ownership interest in the company within a period of 3 years.

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

3. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania realty transfer tax declaration of acquisition may be submitted for this purpose.

(Ord. 77-7, 5/12/1977; as revised by A.O.)

§24-309. Credits Against Tax.

1. Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.

2. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as 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.

(Ord. 77-7, 5/12/1977; as revised by A.O.)

§24-310. Extension of Lease.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

(*Ord. 77-7, 5/12/1977; as revised by A.O.*)

§24-311. Proceeds of Judicial Sale.

The tax herein imposed shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made except the State realty transfer tax, and the Sheriff, or other officer, conducting said sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

(*Ord. 77-7, 5/12/1977; as revised by A.O.*)

§24-312. Duties of Recorder of Deeds.

1. As provided in 16 P.S. §11011-6, as amended by Act of July 7, 1983, (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to 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 2 percent for use of the County, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2 percent commission shall be paid 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 re-recording or recording fee has been tendered.

(*Ord. 77-7, 5/12/1977; as revised by A.O.*)

§24-313. Statement of Value.

Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part. A copy of the Pennsylvania realty transfer tax statement of value may be submitted for this purpose. The provisions of this Section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be

accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part.

(Ord. 77-7, 5/12/1977; as revised by A.O.)

§24-314. 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 50 percent of the underpayment.

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

(Ord. 77-7, 5/12/1977; as revised by A.O.)

§24-315. Lien.

The tax imposed by this Part shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Borough, 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 Bradford County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 *et seq.*, its supplements and amendments.

(Ord. 77-7, 5/12/1977; as revised by A.O.)

§24-316. Enforcement.

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

(Ord. 77-7, 5/12/1977; as revised by A.O.)

§24-317. Regulations.

The Recorder of Deeds of Bradford 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.

(Ord. 77-7, 5/12/1977; as revised by A.O.)

Part 4**Per Capita Tax****§24-401. Purpose.**

This Part is enacted for the purpose of restatement of per capita taxes in a single ordinance and does not impose a new, increased or additional amount of tax.

(*Ord. 79-22, 11/19/1979, §1*)

§24-402. Per Capita Tax.

An annual per capita tax of \$10 per person on each and every resident and inhabitant over 18 years of age in the Borough of Troy is hereby imposed under authority of the Local Tax Enabling Act, Act 511 of 1965, approved December 31, 1965, as amended, 53 P.S. §6924.101 *et seq.*

(*Ord. 79-22, 11/19/1979, §2*)

§24-403. Collection.

The Tax Collector of the Borough of Troy is authorized and directed to collect this tax.

(*Ord. 79-22, 11/19/1979, §3*)

Part 5**Discounts and Penalties****§24-501. Rates of Discount; Penalty.**

1. The rates of discounts and penalties on the following taxes assessed by the Borough of Troy shall be as herein set forth:

A. Tax on assessed value of real estate under the Borough Code, 53 P.S. §45101 *et seq.*

B. Per capita tax under the Borough Code, 53 P.S. §45101 *et seq.*

C. Per capita tax under Act 511, 53 P.S. §6924.101 *et seq.*

D. Occupation tax under Act 511, 53 P.S. §6924.101 *et seq.*

2. For payment of the whole amount of tax within 2 months after the date of the tax notice, the discount shall be 2 percent of the whole amount of the tax.

3. For failure to make payment of the whole amount of the tax within 4 months after the date of the tax notice, the penalty shall be 10 percent of the tax.

(*Ord. 77-2, 2/10/1977, §1*)

Part 6**Tax Collector's Compensation****§24-601. Tax Collector's Compensation.**

The rate of compensation to be paid to the Borough Tax Collector for collecting those Borough taxes for which he is designated collector, that is the real estate tax assessments, the per capita tax and the occupation tax, is fixed as follows:

A. For the collection of real estate tax assessments, \$7.50 per assessment collected effectively January 1, 1998, and \$5 per assessment collected effectively January 1, 2002. For the collection of per capita tax and occupation tax, 5 percent of all such taxes collected.

(*Ord. 80-2*, 7/21/1980; as amended by *Ord. 80-4*, 11/18/1980; and by *Ord. 97-1*, 2/14/1997)

