

**CHAPTER XXIX**

**TAXATION, SPECIAL**

**Part 1**

**Earned Income Tax**

- Section 101. Definitions
- Section 102. Imposition of Taxes
- Section 103. Declaration and Payment of Tax
- Section 104. Collection at Source
- Section 105. Powers and Duties of Income Tax Officer
- Section 106. Compensation of Income Tax Officer
- Section 107. Suit for Collection of Tax
- Section 108. Interest and Penalties
- Section 109. Fines and Penalties for Violation
- Section 110. Payment of Tax to Other Political Subdivisions or States as a Credit or Deduction; Withholding Tax
- Section 111. Collection of Delinquent Earned Income Taxes from Employer, Etc.
- Section 112. Collection of Delinquent Earned Income Taxes from the Commonwealth of Pennsylvania
- Section 113. Collection of Taxes by Suit

**Part 2**

**Per Capita Tax**

- Section 201. Short Title
- Section 202. Imposition of Tax
- Section 203. Collection of Tax
- Section 204. Tax Collector Bonding
- Section 205. Warrant for Collection
- Section 206. Compensation of Tax Collector
- Section 207. Notice to Taxpayers
- Section 208. Powers of Tax Collector
- Section 209. Severability

**Part 3**

**Realty Transfer Tax**

- Section 301. Short Title
- Section 302. Authority
- Section 303. Definitions
- Section 304. Imposition of Tax; Interest
- Section 305. Exempt Parties
- Section 306. Excluded Transactions
- Section 307. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders
- Section 308. Acquired Company
- Section 309. Credits Against Tax
- Section 310. Extension of Lease
- Section 311. Proceeds of Judicial Sale
- Section 312. Duties of Recorder of Deeds
- Section 313. Statement of Value
- Section 314. Civil Penalties

Section 315. Lien  
Section 316. Enforcement  
Section 317. Regulations  
Section 318. Severability

**Part 4**

**Local Services Tax**

Section 401. Authority of Enactment  
Section 402. Definitions  
Section 403. Imposition of Tax  
Section 404. Nonresident Taxpayer  
Section 405. Exemptions  
Section 406. Exemption Application  
Section 407. Collection Through Employers  
Section 408. Direct Payment by Taxpayers  
Section 409. Administration and Enforcement  
Section 410. Collection  
Section 411. Refunds  
Section 412. Penalties  
Section 413. Severability

**Part 1****Earned Income Tax**

Section 101. Definitions. The following words and phrases, when used in this Part, shall have the meanings ascribed to them in this Section:

(a) Association. A partnership, limited partnership or any other unincorporated group of two or more persons.

(b) Business. An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association, or any other entity.

(c) Corporation. A corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency.

(d) Current Year. The calendar year for which the tax is levied.

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

(f) Earned Income. Salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or in property; not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement or payments arising under workmen's compensation acts, occupation disease acts and similar legislation, or payments commonly recognized as old-age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment or payments commonly known as public assistance, or employment compensation payments made by any governmental agency or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs, including but not limited to programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.

(g) Income Tax Officer or Officers. A person, public employee or private agency designated by the Board of Supervisors of the Township of Amity to collect and administer the tax on earned income and net profits.

(h) Employer. A person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation.

(i) Net Profits. The net income from the operation of a business, profession or other activity, except corporations, after provisions for all costs and expenses incurred in the conduct thereof determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession or other activity, but without deduction of taxes based on income.

(j) Nonresident. A person, partnership, association or other entity domiciled outside the Township of Amity.

(k) Person or Individual. A natural person.

(l) Preceding Year. The calendar year before the current year.

(m) Resident. A person, partnership, association or other entity domiciled in the Township of Amity.

(n) Succeeding Year. The calendar year following the current year.

(o) Taxpayer. A person, partnership, association or any other entity required hereunder to file a return of earned income or net profits, or to pay a tax thereon.

(Ordinance 35, January 16, 1970, Section 1)

Section 102. Imposition of Taxes. A tax of one percent (1%) is hereby imposed for general revenue purposes:

(a) in the case of a taxpayer on a calendar year basis, for the current year beginning July 1, 1970 and ending December 31, 1970, and for each year thereafter beginning on January 1 of said year and ending on December 31 of said year, and

(b) in the case of a taxpayer on other than a calendar year basis, for the current year beginning July 1, 1970 and ending at the end of the taxpayer's fiscal year and thereafter beginning the first day of such taxpayer's fiscal year and ending at the end thereof upon the following:

(1) Salaries, wages, commissions and other compensation earned for activities or services, wherever performed or rendered, by individual residents of the Township of Amity.

(2) Salaries, wages, commissions and other compensation earned for activities or services performed or rendered within the Township of Amity by individual nonresidents of the Township of Amity.

(3) Net profits earned from operation of a business, profession or other activity wherever carried on by residents of the Township of Amity.

(4) Net profits earned from operation of a business, profession or other activity carried on within the Township of Amity by nonresidents of the Township of Amity.

The taxes levied under Subsections (1) and (2) herein shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by any employer or on his behalf to a person who is employed by him. The taxes levied under Subsections (3) and (4) herein shall relate to and

be imposed upon the net profits of any business, profession or other activity carried on by any person or persons.

(Ordinance 35, January 16, 1970, Section 2)

Section 103. Declaration and Payment of Tax.

(a) Net Profits.

(1) Each taxpayer making a net profit for the period from July 1, 1970 and ending December 31, 1970 shall pay the tax due on or before April 15, 1971 to the Income Tax Officer, and such taxpayer shall pay on April 15 of any succeeding year the tax due for the period beginning January 1 and ending December 31 of the current year. Accompanying said payment shall be a return form prescribed or approved by the Income Tax Officer.

(2) Every taxpayer who discontinues business prior to December 31 of any year shall, within thirty (30) days after the discontinuance of his business, file his final return as hereinabove required and pay the tax due.

(b) Earned Income.

(1) Annual Earned Income Tax Return. Every taxpayer, on or before April 15, 1971 and on or before April 15 of every succeeding year, shall make and file with the Income Tax Officer, on a form prescribed or approved by the Officer, a final return showing the amount of earned income received during the period beginning July 1, 1970 and ending December 31, 1970 and for every succeeding year beginning January 1 of the immediately prior year and ending December 31 of said immediately prior year, respectively, the total amount of tax due thereon, the amount of tax paid thereon, and amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

(2) Earned Income Not Subject to Withholding. Every taxpayer who is employed for a salary, wage, commission or other compensation and who received any earned income not subject to the provisions relating to collection at source shall make and file with the Income Tax Officer a return setting forth the aggregate amount of earned income not subject to withholding from him during the period beginning July 1, 1970 and ending December 31, 1970 and thereafter for the periods beginning January 1 and ending December 31 of the then current year, and such other information as the Income Tax Officer may require, and pay to said Officer the amount of tax shown due thereon on or before April 15, 1971 or April 15 of each succeeding year.

(Ordinance 35, January 16, 1970, Section 3)

Section 104. Collection at Source.

(a) Every employer having an office, factory, workshop, branch, warehouse or other place of business within the Township of Amity who on July 1, 1970 employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation shall, on or before December 1, 1970, register with the Officer his name and address and such other information as the Officer may require. Every employer having an

office, factory, workshop, branch, warehouse or other place of business within the Township of Amity who after July 1, 1970 employs for the first time after that date one or more persons, other than domestic servants, for a salary, wage, commission or other compensation shall, within fifteen (15) days after becoming an employer, register with the Officer his name and address and such other information as the Officer may require.

(b) Every employer having an office, factory, workshop, branch, warehouse or other place of business within the Township of Amity who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation shall deduct at the time of payment thereof the tax imposed by this Part on the earned income due to his employee or employees, and shall, on or before January 31, 1971, file a return and pay to the Income Tax Officer the amount of taxes deducted during the preceding two (2) months ending December 31, 1970, and shall file a return and pay to the Income Tax Officer for each succeeding year on April 30 of the then current year, July 31 of the then current year, October 31 of the then current year, and January 31 of the then current year, the amount of taxes deducted during the preceding three (3) month period ending March 31 of the then current year, June 30 of the then current year, September 30 of the then current year and December 31 of the then current year, respectively. Each such return filed unless otherwise agreed upon between the Income Tax Officer and the employer shall show the name and social security number of each such employee, the earned income of such employee during the preceding three (3) month period, the tax deducted therefrom, the political subdivision imposing the tax upon such employee, the total earned income of all such employees during such preceding three (3) month period, and the total tax deducted therefrom and paid with the return.

Any employer who for two (2) of the preceding four (4) quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the Income Tax Officer of the Township of Amity may be required by such Officer to file his return and pay the tax monthly. In such cases payments of tax shall be made to the Officer on or before the last day of the month succeeding the month for which the tax was withheld.

(c) On or before February 28, 1971 and on or before February 28 of every succeeding year every employer shall file with the Officer:

(1) An annual return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to the Officer for the period beginning July 1, 1970 and ending December 31, 1970, and for every succeeding year for the period beginning January 1 of the immediately prior year and ending December 31 of the immediately prior year.

(2) A return withholding statement for each employee employed during all or any part of the period beginning July 1, 1970 and ending December 31, 1970, and for every succeeding year for the period beginning January 1 of the immediately prior year and ending December 31 of the immediately prior year, setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, and the amount of tax paid to the Officer. Every employer shall furnish two (2) copies of the individual return to the employee for whom it is filed.

(d) Every employer who discontinues business prior to December 31 of any current year shall, within thirty (30) days after the

discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

(e) Except as otherwise provided by Section 9 of the Act of the General Assembly of the Commonwealth of Pennsylvania, approved the 31<sup>st</sup> day of December, 1965, No. 511, known as "The Local Tax Enabling Act", every employer who willingly or negligently fails or omits to make the deductions required by this Section 104 shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.

(f) The failure or omission of any employer to make the deductions required by this Section 104 shall not relieve any employee from the payment of the tax or from complying with the requirements of this Part relating to the filing of declarations and returns.

(g) Commencing in the first quarter 2003, all employers that are located within the Township of Amity, Berks County, Pennsylvania, and that have one hundred (100) or more employees during any quarter of the year, must use electronic media (including, but not limited to, diskette, compact disk and electronic transmission) to satisfy its tax reporting obligations for such quarter or for such year.

(h) Commencing in the first quarter of 2004, all employers that are located within the Township of Amity, Berks County, Pennsylvania, and that have fifty (50) or more employees during any quarter of the year must use electronic media (including, but not limited to, diskette, compact disk and electronic transmission) to satisfy its tax reporting obligations for such quarter and for such year.

(i) Any employer that is required to file its tax reporting obligations via electronic media but fails to file via electronic media shall be liable for a Three Hundred and 00/100 Dollars (\$300.00) fine for each reporting period that the employer does not file via electronic media.

(Ordinance 35, January 16, 1970, Section 4; as amended by Ordinance 194, October 22, 2002, Section 2)

Section 105. Powers and Duties of Income Tax Officer.

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

Upon the filing of a final return for any year and its acceptance as true and correct by the Income Tax Officer, said Officer shall promptly refund any overpayment of tax demanded therein to the taxpayer.

The Income Tax Officer shall pay all taxes, fines and penalties collected by him, less (1) refunds made to taxpayers for overpayment of tax and (2) a reasonable reserve for refunds which must be made therefrom, to the Treasurer of the Township within one (1) month fifteen (15) days after the receipt of the same.

(b) The Income Tax Officer, before entering upon his official duties, shall give and acknowledge a bond to the Township of Amity in such amount as may be fixed from time to time by Resolution of the Board of Supervisors, which amount shall be equal to the maximum amount of taxes which such Officer may be in possession at any given time. If the Board of Supervisors shall by Resolution designate any bond previously given by

the Income Tax Officer as adequate, such previously given bond shall satisfy the requirements of this subsection.

The bond of the Income Tax Officer shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in the Commonwealth of Pennsylvania and duly licensed by the Insurance Commissioner of said Commonwealth.

Said bond shall be conditioned upon the faithful discharge by said Officer, his clerks, assistants and appointees of all trusts confided in him by virtue of his office upon the faithful execution of all duties required by him by virtue of his office upon the just and faithful accounting and paying over, according to law, of all moneys and balances thereof to be paid to, received or held by him by virtue of his office and upon the delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office.

Said bond shall be taken in the name of the Township of Amity and shall be for the use of the Township of Amity and for the use of such other person or persons for whom money shall be collected or received, or as its or his interest shall otherwise appear, in case of a breach of any of the conditions of said bond by the acts or neglect of the principal on the bond.

The Township of Amity or any person may sue upon said bond in its or his own name for its or his own use.

The bond shall contain the name or names of the surety companies bound thereon.

The Township of Amity may, at any time upon cause shown and due notice to the Officer and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to said Township for the purpose of making the bond sufficient in amount, without releasing the surety of sureties first approved from any accrued liability or previous action on said bond.

The Secretary of the Township of Amity shall be the custodian of the bond required to be given by the Income Tax Officer, unless said Township Secretary is appointed as the Income Tax Officer, in which event the Township Treasurer shall be the custodian of said bond. In the event that the Secretary is appointed as the Income Tax Officer and the Township Secretary and the Township Treasurer are one and the same individual, then the Chairman of the Board of Supervisors shall be the custodian of said bond.

(c) The Income Tax Officer is hereby empowered to prescribe, adopt and promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in case of overpayment, for any period of time not to exceed six (6) years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of this Part. No rule or regulation of any kind shall be enforceable unless it has been approved by Resolution of the Board of Supervisors of the Township of Amity. A copy of all such rules and regulations from time to time in force shall be available for public inspection at the office of the Earned Income Tax Officer.

(d) The Earned Income Tax Officer shall refund, on petition of and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses to the extent that such expenses are not paid by the taxpayer's employer.

(e) The Income Tax Officer and the agents designated by him are hereby authorized to examine the books, papers and records of any employer, any taxpayer or any person whom the Income Tax Officer reasonably believes to be an employer or taxpayer in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every employer, every taxpayer and every person whom the Income Tax Officer reasonably believes to be an employer or taxpayer is hereby directed and required to give to the Officer, or to any agent designated by him, the means, facilities and opportunity for such examination and investigation as are hereby authorized.

(f) Any information gained by the Income Tax Officer, his agent or any other official or agent of the Township of Amity as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Part shall be confidential, except for official purposes and except in accordance with the proper judicial order, or as otherwise provided by law.

(g) The Income Tax Officer is hereby authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

(Ordinance 35, January 16, 1970, Section 5)

Section 106. Compensation of Income Tax Officer. The Income Tax Officer shall receive such compensation for his services and expenses as determined from time to time by the Board of Supervisors of the Township of Amity. (Ordinance 35, January 16, 1970, Section 6)

Section 107. Suit for Collection of Tax.

(a) The Income Tax Officer may sue in the name of the Township of Amity for the recovery of taxes due and unpaid under this Part.

(b) Any suit brought to recover the tax imposed by this Part shall be commenced within three (3) years after such tax is due, or within three (3) years after the declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

(1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under the provisions of this Part, there shall be no limitation.

(2) Where an examination of the declaration or return filed by any person or of other evidence relating to such declaration or return in the possession of the officer reveals a fraudulent evasion of taxes, there shall be no limitation.

(3) In the case of substantial understatement of tax liability of twenty-five percent (25%) or more, and no fraud suit shall be commenced within six (6) years.

(4) Where any person has deducted taxes under provisions of this Part and has failed to pay the amount so deducted to the Income Tax Officer, or where any person has willfully failed or omitted to

make the deductions required by this Section, there shall be no limitation.

(5) This action shall not be construed to limit the Board of Supervisors of the Township of Amity from recovering delinquent taxes by any other means provided by this Part or by other appropriate law.

(c) The Income Tax Officer may sue for recovery of an erroneous refund provided such suit is commenced within two (2) years after making such refund, except that the suit be brought within five (5) years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

(Ordinance 35, January 16, 1970, Section 7)

Section 108. Interest and Penalties. If for any reason the tax is not paid when due, interest at the rate of six percent (6%) per annum on the amount of said tax, and an additional penalty of one-half of one percent (0.5%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected.

When suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the cost of collection and the interest therein imposed. (Ordinance 35, January 16, 1970, Section 8).

Section 109. Fines and Penalties for Violation.

(a) Any person who fails, neglects or refuses to make any declaration or return required by this Part, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the Officer or any agent designated by him to examine his books, records and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part, shall, upon conviction thereof before any district justice or court of competent jurisdiction in the County of Berks, be sentenced to pay a fine of not more than Six Hundred Dollars (\$600.00) for each offense, and costs, and in default of payment of said fine and costs shall be imprisoned for a period not exceeding thirty (30) days.

(b) Any person who divulges any information which is confidential under the provisions of this Part shall, upon conviction thereof before any district justice or court of competent jurisdiction, be sentenced to pay a fine of not more than Six Hundred (\$600.00) Dollars for each offense and costs, and in default of payment of said fine and costs shall be imprisoned for a period not exceeding thirty (30) days.

(c) The penalties imposed under this Section shall be in addition to any other penalty imposed by any other section of this Part.

(d) The failure of any person to receive or procure forms required for making the declaration or returns required by this Part shall not excuse him from making any such declaration or return.

(Ordinance 35, January 16, 1970, Section 9)

Section 110. Payment of Tax to Other Political Subdivisions or States as a Credit or Deduction; Withholding Tax. Payment of any tax on salaries, wages,

commissions, other compensation or net profits of business, professions or other activities to a political subdivision by residents thereof pursuant to an ordinance or resolution passed or adopted under the authority of the Act of December 31, 1965, No. 55, known as 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.

Payment of any tax on income to any political subdivision by residents thereof pursuant to an ordinance or resolution passed or adopted under the authority of the Act of December 31, 1965, No. 511, known as the "Local Tax Enabling Act" shall, to the extent that such income includes salaries, wages, commissions, 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 business, professions or other activities imposed by this Part.

Payment of any tax on income to any political subdivision other than the school district of which the Township of Amity forms a part by residents thereto pursuant to an ordinance or resolution passed or adopted under the authority of the Act of December 31, 1965, No. 511, known as "The Local Tax Enabling Act" shall, to the extent that such income includes salaries, wages, commissions, 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 persons for any other tax on salaries, wages, commissions, other compensation or on net profits of businesses, professions or other activities imposed by this Part.

Payment of any tax on income to any state, other than the Commonwealth of Pennsylvania, or to any political subdivision of such other state by residents thereof, pursuant to any state or local law, 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 persons for any other tax on salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities imposed by this Part, if residents of the Township of Amity receive credits and deductions of a similar kind to a like degree from the tax on income imposed by the other state or political subdivision.

Where a credit or a deduction is allowable under the provisions of this Section, it shall be allowed in proportion to the concurrent periods for which taxes are imposed by the other state or respective political subdivisions but not in excess of the amount previously paid for a concurrent period. (Ordinance 35, January 16, 1970, Section 10)

Section 111. Collection of Delinquent Earned Income Taxes from Employer, Etc. The Earned Income Tax Officer shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals employing persons owing delinquent earned income taxes, or whose wife owes delinquent earned income taxes, or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent earned income taxes, or whose wife owes delinquent earned income taxes, upon the presentation of a written notice in demand under oath or affirmation, containing the name of the taxable or the husband thereof, and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of any corporation, political subdivision, association, company, firm or individual to collect from the wages, commissions or earnings of such individual employees then owing or that shall within sixty (60) days thereafter become due, or from any unpaid commissions or earnings of any such taxable in its or his possession, or

that shall, within sixty (60) days thereafter come into 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 Earned Income Tax Officer of the Township of Amity within sixty (60) days after such notice shall have been given. Such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding two (2%) of the amount of money so collected and paid over to the Earned Income Tax 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 Earned Income Tax Officer, less the cost of bookkeeping involved in such transaction, as above 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 ten percent (10%) added thereto, to be recovered by an action of assumption in a suit to be instituted by the Earned Income Tax Officer, or by the proper authorities of the Township of Amity, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law. (Ordinance 35, January 16, 1970, Section 11)

Section 112. Collection of Delinquent Earned Income Taxes from the Commonwealth of Pennsylvania. Upon presentation of a written notice and demand under oath or affirmation to the State Treasurer or any other fiscal officer of the Commonwealth of Pennsylvania, or its boards, authorities, agencies or commissions, it shall be the duty of the Treasurer or officer to deduct from the wages then owing, or that shall within sixty (60) days thereafter become due to any employee, a sum sufficient to pay the respective amount of the delinquent earned income taxes and costs shown on the written notice. The same shall be paid to the Earned Income Tax Officer of the Township of Amity within sixty (60) days after such notice shall have been given. (Ordinance 35, January 16, 1970, Section 12)

Section 113. Collection of Taxes by Suit. The Township of Amity, in accordance with the authority granted it by Section 21 of the Act of December 31, 1965, No. 511, known as "The Local Tax Enabling Act", shall have the power to collect unpaid earned income taxes from the persons owing such taxes by suit in assumption or other appropriate remedy. Upon each such judgment, execution may be issued without any stay or benefit of any exemption law. (Ordinance 35, January 16, 1970, Section 13)

## Part 2

### Per Capita Tax

Section 201. Short Title. This ordinance shall be known and may be cited as the Amity Township Per Capita Tax Ordinance. (Ordinance 47, January 19, 1973, Section 10)

Section 202. Imposition of Tax. A per capita tax of Five Dollars (\$5.00), for the general operating expenses of the Township, is hereby levied and assessed under the authority of the Act of General Assembly of the Commonwealth of Pennsylvania, approved the 31<sup>st</sup> day of December, 1965, as amended, and known as "The Local Tax Enabling Act", upon each resident or inhabitant of the Township of Amity eighteen (18) years of age and over, which tax shall be in addition to all other taxes levied and assessed by the Township pursuant to any other laws of the Commonwealth of Pennsylvania. (Ordinance 47, January 19, 1973, Section 1)

Section 203. Collection of Tax. Such tax shall be collected by the duly elected or appointed tax collector of the Township of Amity in the same manner and at the same time as other Township taxes are collected, as provided for by the Local Tax Enabling Act, as amended and supplemented. (Ordinance 47, January 19, 1973, Section 2).

Section 204. Tax Collector Bonding. The tax collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law for other Township taxes. (Ordinance 47, January 19, 1973, Section 3)

Section 205. Warrant for Collection. The entry of the per capita tax and the tax duplicate and the issuance of such duplicate to the tax collector shall constitute his warrant for the collection of the per capita tax hereby levied and assessed. (Ordinance 47, January 19, 1973, Section 4)

Section 206. Compensation of Tax Collector. The expense of collection and compensation of the tax collector shall be made in the same manner as is currently provided for the expense of collection and compensation of the tax collector for the Township of Amity. (Ordinance 47, January 19, 1973, Section 5)

Section 207. Notice to Taxpayers. The tax collector shall give notice to the taxpayers of the amount of per capita tax due under this Part, at the same time and in the same manner as provided for by the existing per capita tax due and as provided by the Local Tax Enabling Act. (Ordinance 47, January 19, 1973, Section 6)

Section 208. Powers of Tax Collector. The tax collector shall have the power to distrain and sell goods and chattels of a delinquent taxpayer and shall have the remedies and means of collection as provided for in the Local Tax Enabling Act. (Ordinance 47, January 19, 1973, Section 7)

Section 209. Severability. If any sentence, clause, section or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not effect or impair any of the remaining provisions, sentences, clauses or sections or parts of this Part. (Ordinance 47, January 19, 1973, Section 9)

**Part 3**

**Realty Transfer Tax**

Section 301. Short Title. This Ordinance shall be known as the "Realty Transfer Tax Ordinance of Amity Township. (Ordinance 109, January 19, 1987, Section 1)

Section 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 Amity Township, 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.A. Section 8101-D et seq. (Ordinance 109, January 19, 1987, Section 2)

Section 303. Definitions.

(a) Associations. A partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two (2) or more persons other than a private trust or decedent's estate.

(b) 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.

(c) Document. Any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding thirty (30) years, or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under Section 302 of this Chapter.

(d) Family Farm Corporation. A corporation of which at least seventy-five percent (75%) of its assets are devoted to the business of agriculture and at least seventy-five percent (75%) of each class of stock of the corporation is continuously owned by members of the same family. The business 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 operations of any kind.

(e) 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.

(f) 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.

(g) Real Estate.

(1) All lands, tenements or hereditaments within Amity Township, including without limitation buildings, structures, fixtures, 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.

(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.

(h) Real Estate Company. A corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, ninety percent (90%) or more of the ownership interest in which is held by thirty-five (35) or fewer persons and which:

(1) Derives sixty percent (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 ninety percent (90%) or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an establishment market.

(i) 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 in real estate in which the lessee has equity.

(j) Transaction. The making, executing, delivering, accepting or presenting for recording of a document.

(k) 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 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;

(2) In the case of a gift, sale by execution upon a judgment or upon the foreclosures 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;

(3) In the case of an easement or other interest in real estate the value of which is not determinable under subsection (1) or (2) above, the actual monetary worth of such interest; or

(4) The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other persons existing before the transfer and not removed thereby or between the grantor, the agent or principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Ordinance 109, January 19, 1987, Section 3)

Section 304. Imposition of Tax; Interest.

(a) 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 one percent (1%) of the value of the real estate represented by such document, which tax shall be payable at the earlier of: (1) the time the document is presented for recording, (2) within thirty (30) days of acceptance of such document or (3) within thirty (30) days of becoming an acquired company.

(b) The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder whereon the date of the payment of the tax, the amount of the tax and the signature of the collecting agent shall be set forth.

(c) 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 limitation prescribed in the "Local Tax Enabling Act," Act of December 31, 1965, P.L. 1257, 53 P.S. Section 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the Township of Amity under the authority of the Act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half (1/2) of the rate and such one-half (1/2) rate shall become effective without any action on the part of the Township of Amity; provided, however, that the

Township of Amity and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half (1/2) of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the "Local Tax Enabling Act".

(d) If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due shall be added and collected.

(Ordinance 109, January 19, 1987, Section 4)

Section 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. (Ordinance 109, January 19, 1987, Section 5)

Section 306. Excluded Transactions. The tax imposed by Section 304 of this Part shall not be imposed upon:

(a) A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property fine adjustments provided said reconveyance is made within one (1) year from the date of condemnation.

(b) A document which the Township of Amity 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 of no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.

(e) A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by co-tenants; however, if any of the parties takes 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 grandparent and grandchild, or the spouse of such grandchild, except that a subsequent transfer by the grantee within one (1) year shall be subject to tax as if the grantor were making such transfer.

(g) A transfer for no or nominal actual consideration of property passing by testate or 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 a trustee to a 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 was his principal, no tax would be imposed under this Part.

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

(l) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.

(m) A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two (2) years.

(n) A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt or 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 transfer for commercial purposes.

(r) A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, (68A Stat. 3, 26 U.S.C. Section 501(c)(3)) and which has as its primary

purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

(s) A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least seventy-five percent (75%) of each class of the stock thereof.

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

(u) A transaction wherein the tax due is One Dollar (\$1.00) or less.

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

In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this Part. (Ordinance 109, January 19, 1987, Section 6)

Section 307. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof. Except as otherwise provided in Section 306 of this Part, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders. (Ordinance 109, January 19, 1987, Section 7)

Section 308. Acquired Company.

(a) A real estate company is an acquired company upon a change in the ownership interest in the company, if the change in ownership interest: (1) does not affect the continuity of the company; and (2) together with prior changes within the preceding three (3) years has the effect of transferring, directly or indirectly, ninety percent (90%) or more of the total ownership capital and profits ownership interest in the company.

(b) 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.

(c) Within thirty (30) days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

(Ordinance 109, January 19, 1987, Section 8)

Section 309. Credits Against Tax.

(a) 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.

(b) Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration of the purchase of new, previously occupied 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.

(c) Where there is a transfer of real estate which is leased by the grantor, a credit of the amount of tax paid at the time of the lease shall be given to the grantor toward the tax due upon the transfer.

(d) 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 to the grantor toward the tax due upon the deed.

(e) 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.

(Ordinance 109, January 19, 1987, Section 9)

Section 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. (Ordinance 109, January 19, 1987, Section 10)

Section 311. Proceeds of Judicial Sale. The tax herein imposed shall be fully paid and have priority out of the proceeds or any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or cost 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 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. (Ordinance 109, January 19, 1987, Section 11)

Section 312. Duties of Recorder of Deeds.

(a) As provided in 16 P.S. Section 11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to the Township of Amity 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 Township of Amity.

(b) In order to ascertain the amount of taxes due when the property is located in more than one (1) 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.

(b) On or before the tenth (10<sup>th</sup>) day of each month the Recorder shall pay over to the Township of Amity all local realty transfer taxes collected, less two percent (2%) for the use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The two percent (2%) commission shall be paid to the county.

(c) Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall re-record the deed or record the additional realty transfer tax form only when both the state and local amounts and a re-recording or recording fee has been tendered.

(Ordinance 109, January 19, 1987, Section 12)

Section 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. (Ordinance 109, January 19, 1987, Section 13)

Section 314. Civil Penalties.

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

(b) 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 five percent (5%) of the amount of such tax if the failure is not for more than one (1) month, with an additional five percent (5%) for each additional month or fraction thereof during which such failure continues, not exceeding fifty percent (50%) in the aggregate.

(Ordinance 109, January 19, 1987, Section 14)

Section 315. Lien. The tax imposed by this Part shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying or being situated, wholly or in part, within the boundaries of the Township of Amity, which lands, tenements, hereditaments, or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this Part, said lien to begin at the time when the tax under this Part is due and payable, and continue until discharge by payment, or in accordance with the law, and the Township Solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Berks County in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. Section 7101 et seq., its supplements and amendments. (Ordinance 109, January 19, 1987, Section 15)

Section 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. (Ordinance 109, January 19, 1987, Section 16)

Section 317. Regulations. The tax collector of the Township of Amity is charged with enforcement and collection of the 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. Section 8101-C, et seq., are incorporated into and made a part of this Part. (Ordinance 109, January 19, 1987, Section 17)

Section 318. Severability. Should any section, subsection, sentence, clause or phrase of this Part be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this Part in its entirety or of any part hereof other than that declared to be invalid. (Ordinance 109, January 19, 1987, Section 19)

## Part 4

### Local Services Tax

Section 401. Authority of Enactment. This Part is enacted under authority of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania. (Ordinance 241, November 7, 2007, Section 1)

Section 402. Definitions. As used in this Part, the following terms shall have meanings indicated, unless a different meaning clearly appears from the context:

(a) Compensation. Salaries, wages, commissions, tips, bonuses, fees or any other earned income and net profits.

(b) Employer. Any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency or any other body engaged in business or situated in the Township of Amity, Berks County, Pennsylvania, employing one (1) or more employees engaged in any occupation.

(c) Occupation. Any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, for which monetary compensation is received or charged.

(d) Local Services Tax Collector. Berks Earned Income Tax Bureau.

(e) Reserve Component of the Armed Forces. The United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, The Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

(f) Taxpayer. Any natural person liable for the tax levied by this Part.

(g) Township. The Township of Amity, Berks County, Pennsylvania.

(Ordinance 241, November 7, 2007, Section 1)

Section 403. Imposition of Tax. A local services tax for emergency services (which shall include emergency medical services, police services and/or fire services), road construction and/or maintenance, reduction of property taxes, and property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa. C.S. Ch. 85 Subch. F, in the amount of Fifty-Two Dollars (\$52.00), is hereby imposed upon a Taxpayer engaging in an occupation within the Township, in the year 2008 and in each succeeding calendar year in which this tax is in effect. Each natural person who exercises such privilege for any length of time in any calendar year beginning with the year 2008 shall pay the tax in accordance with the provisions hereof. (Ordinance 241, November 7, 2007, Section 1)

Section 404. Nonresident Taxpayer. Both residents and nonresident Taxpayers shall, by virtue of engaging in an occupation within the Township, be subject to the tax and the provisions of this Part. (Ordinance 241, November 7, 2007, Section 1)

Section 405. Exemptions. The following persons may apply and shall be eligible for an exemption from the imposition of the Local Services Tax:

(a) All Taxpayers whose total Compensation from all sources is less than Twelve Thousand and 00/100 Dollars (\$12,000.00) per annum.

(b) Any person who served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service and as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent (100%) permanent disability.

(c) Any person who serves as a member of a Reserve Component of the Armed Forces and is called to active duty at any time during the taxable year.

(Ordinance 241, November 7, 2007, Section 1)

Section 406. Exemption Application. Taxpayers seeking to claim an Exemption for the Local Services Tax shall annually file an Exemption Certificate with the Township and with the Employer. (Ordinance 241, November 7, 2007, Section 1)

Section 407. Collection Through Employers.

(a) Each Employer shall register with the Local Services Tax Collector ("Tax Collector") the employer's name, address and other information the tax collector may require within fifteen (15) days after the effective date of this Part or within fifteen (15) days after first becoming an Employer.

(b) Each Employer shall assess each Taxpayer a pro-rata share of the tax for each payroll period. The pro-rata share shall be determined by dividing the tax levied by the number of payroll periods established by the Employer for the calendar year.

(c) For each Taxpayer employed for any length of time after the effective date of this Part, each Employer shall deduct the tax from compensation payable to the Taxpayer, file a return on a form prescribed by the Tax Collector and pay to such Tax Collector the amount of taxes deducted on a quarterly basis as follows: April 30, July 30, October 30 and January 30 for the preceding quarter of the current tax year. For each Taxpayer for whom no prior deduction has been made, who is employed after the effective date of this Part, each Employer shall withhold from the Taxpayer, for the first payroll period after employment, a lump sum equal to the amount of tax that was not withheld from the Taxpayer, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a Taxpayer subject to withholding of the tax under this Part is subsequently severed in that calendar year, the Taxpayer shall be liable for any outstanding balance of tax due and the Township may pursue collection under this Part and the Act.

(d) As to Taxpayers who present official receipts evidencing prior payment of the tax imposed hereby either directly or by collection through Employers, the Employer shall not deduct that pro-rata share of the tax but the employer shall withhold from the Taxpayer, for the first payroll period, a lump sum equal to the amount of tax that was not withheld from the Taxpayer to equal the necessary amount due from that Taxpayer to date to equal what all other employees have paid, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be

the same amount withheld for other employees.

(e) If a Taxpayer who claimed an exemption for a given calendar year from the tax levied under this Part becomes subject to the tax for the calendar year under this Part, the Employer shall withhold the tax for the remainder of that calendar year. The Employer shall withhold from the Taxpayer, for the first payroll period after receipt of the notification, a lump sum equal to the amount of tax that was not withheld from the Taxpayer due to the exemption claimed by the Taxpayer, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees.

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

(g) The failure of any Employer to deduct the tax as required in this Section shall not relieve the Taxpayer from the duty to file a return and pay the tax. Any Employer who fails to deduct the tax as required by this Section, or who fails to pay such tax to the Tax Collector, shall be liable for such tax in full, without deduction of the commission hereinafter provided, as though the tax had originally been levied against such Employer.

(h) Each Employer may deduct and retain a commission equal to two percent (2%) of the total amount of tax collected through the Employer pursuant to this Section.

(Ordinance 241, November 7, 2007, Section 1)

Section 408. Direct Payment by Taxpayers. Every Taxpayer who is self-employed or whose tax for any other reason is not collected under Section 405 of this Part shall file a return on a form prescribed by the Tax Collector and shall pay the tax directly to such collector. Each such Taxpayer who first becomes subject to the tax after the effective date of this Part, shall file a return on a form prescribed by the Tax Collector and pay to such Tax Collector the amount of taxes due and owing on a quarterly basis as follows: April 30, July 30, October 30 and January 30 for the preceding quarter of the current tax year. (Ordinance 241, November 7, 2007, Section 1)

Section 409. Administration and Enforcement. The Tax Collector shall collect and receive the taxes, interest, fines and penalties imposed by this Part and shall maintain records showing the amounts received and the dates such amounts were received. The Tax Collector shall prescribe and issue all forms necessary for the administration of the tax and may adopt and enforce regulations relating to any matter pertaining to the administration of this Part. The Tax Collector and agents designated by him/her may examine the records of any Employer and/or supposed Employer or of any Taxpayer in order to ascertain the tax due or verify the accuracy of any return. Every Employer or supposed Employer and every Taxpayer or supposed Taxpayer shall give the Tax Collector and any agent designated by him/her all means, facilities and opportunities for the examination hereby authorized. (Ordinance 241, November 7, 2007, Section 1)

Section 410. Collection. The Tax Collector shall collect by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Part and unpaid. If for any reason, any tax is not paid when due, penalty at the rate of six percent (6%) per year on the amount of unpaid taxes and additional interest of one-half of one percent (1/2 of 1%) of the amount of the unpaid tax, for each month or fraction of month during which the tax remains unpaid shall be

added and collected. Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the cost of collection as well as for interest and penalties. The Tax Collector may accept payment under protest of the tax claimed by the Township, in any case where any person disputes the Township's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the Tax Collector, such tax collector shall refund the amount of the overpayment to the person who paid under protest.

Any action instituted for such judicial determination shall be instituted within two (2) years of the last day of the period for which the tax is disputed or claim made. All refunds shall be made in conformity with the procedure prescribed by the Board of Supervisors of the Township. (Ordinance 241, November 7, 2007, Section 1)

Section 411. Refunds. All requests for the refund of overpaid Local Services Tax shall be made in writing to the Tax Collector and shall contain sufficient written evidence, including copies of paystubs, to establish to the Tax Collector that an overpayment has occurred. The Tax Collector shall make a determination on the request for a refund within seventy-five (75) days of the request. All refunds shall be made within seventy-five (75) days of the request.

Any appeal of the Tax Collectors determination shall be made directly to the Board of Supervisors of the Township within thirty (30) days of the tax Collectors decision. (Ordinance 241, November 7, 2007, Section 1)

Section 412. Penalties.

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

(b) The failure of any person to receive or procure forms required for making the declaration or returns required by this Part, as amended, shall not excuse him from making such declaration or return."

(Ordinance 241, November 7, 2007, Section 1)

Section 413. Severability. If any sentence, clause, section or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Part. It is hereby declared as the intent of the Board of Supervisors of the Township that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ordinance 241, November 7, 2007, Section 1)