

CHAPTER 24

TAXATION, SPECIAL

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Part 1  
Earned Income Tax

§101. Short Title and Effective Date. This Part 1 shall be known and may be cited as the "Township of Walker Earned Income Tax Ordinance of 1967." It is enacted under the authority of the Local Tax Enabling Act of December 31, 1965, P.L. (Act No. 511). This Part 1 shall become effective as of July 1, 1967. (Ord. 1967-1, 5/-/1967, §1)

§102. Definitions. Unless otherwise expressly said, the following words and phrases used in this Part 1 shall have the meaning therein indicated.

ACT - the Local Tax Enabling Act of December 31, 1965, P.L. (Act No. 511).

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

BOARD OF SUPERVISORS - the Board of Supervisors of the Township of Walker.

BUSINESS - an enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association, or any other entity.

CORPORATION - a corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency.

CURRENT YEAR - the calendar year for which the tax is levied.

DOMICILE - the place where one lives and is 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, nor for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses, or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME - salaries, wages, commissions, bonuses, incentive payments, fees, 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, occupational disease, acts and similar legislation, or payments

commonly recognized as old age benefit, retirement pay or pensions paid to persons retired from service reaching a specific age or after a stated period of employment or payments commonly known as public assistance, or unemployment compensation payments made by any governmental agency or payments to reimburse expenses or payments made by 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.

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

GOVERNING BODY - the Board of Supervisors of the Township of Walker.

INCOME TAX OFFICER OR OFFICER - person, corporation, public employee or private agency designated by the Board of Supervisors of the Township of Walker to collect and administer the tax on earned income and net profits.

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

NONRESIDENT - a person, partnership, association or other entity domiciled outside the Township of Walker.

PERSON OR INDIVIDUAL - a natural person.

PRECEDING YEAR - the calendar year before the current year.

RESIDENT - a person, partnership, association, or other entity domiciled in the Township of Walker.

SUCCEEDING YEAR - the calendar year following the current year.

TAXING DISTRICT - the Township of Walker.

TAXPAYER - a person, partnership, association, or any other entity, required hereunder to file a return on earned income or net profits, or to pay a tax thereon.

TOWNSHIP - the Township of Walker.

(Ord. 1967-1, 5/-/1967, §2)

§103. Imposition of Tax. A tax of one (1%) percent for general revenue purposes is hereby imposed beginning July 1, 1967, and continuing thereafter until further action of the Board of Supervisors on all earned income and net profits earned by residents of the Township, and on earned income and net profits earned by non-residents of the Township within the Township, for the period beginning July 1 of the current year and ending December 31 of the current year. The said tax shall continue in force thereafter on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of tax is subsequently changed. (Ord. 1967-1, 5/-/1967, §3)

§104. Declaration and Payment of Tax.1. Net Profits.

A. Every taxpayer making net profits subject to this Part 1 shall pay to the Officer an annual payment of tax due on or before April 15, of the succeeding year, for the period beginning July 1, and ending December 31, of the current year, and on or before April 15, of the next succeeding year and of each succeeding year thereafter, make and file with the Officer on a form prescribed or approved by the Officer, a declaration of his estimated net profits during the period beginning January 1 and ending December 31, of the succeeding year, and pay to the Officer in four (4) quarterly installments the tax due thereon as follows: The first installment at the time of filing the declaration, and the other installments on or before June 15, of the succeeding year, September 15 of the succeeding year, and January 15, of the succeeding year, respectively, and on the same dates of each succeeding year thereafter.

B. Any taxpayer who first anticipates any net profit after April 15, of the succeeding year, shall make and file the declaration hereinabove required on or before June 15, of the succeeding year, September 15, of the succeeding year, or December 31, of the succeeding year, and on the same dates of each succeeding year thereafter, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the Officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.

C. Every taxpayer shall, on or before April 15, of the succeeding year, make and file with the Officer on a form prescribed or approved by the Officer, a final return showing the amount of net profits earned during the period beginning July 1 of the current year and ending December 31 of the current and during the period beginning January 1 of the succeeding year and ending December 31 of the succeeding year, and during similar periods of each succeeding year thereafter, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the Officer the balance of tax due or shall make demand for refund or credit in the case of overpayment.

Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the Officer on or before January 31, of the succeeding year, and each succeeding year thereafter, the final return as hereinabove required.

D. The Officer is authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.

E. Every taxpayer who discontinues business prior to December 31, of the current year, and prior to the same date of each succeeding year thereafter, shall within thirty (30) days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

## 2. Earned Income.

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

B. Earned Income Not Subject to Withholding. 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:

(1) Make and file with the Officer on a form prescribed or approved by the Officer, an annual return setting forth the aggregate amount of earned income not subject to withholding from him, during the period beginning July 1, and ending December 31, of the current year, and during the period beginning January 1, and ending December 31, thereafter, and such other information as the Officer may require, and pay to the Officer the amount of tax shown as due thereon on or before April 15, of the succeeding year, and on or before April 15, of each succeeding year thereafter, and

(2) Make and file with the Officer on a form prescribed or approved by the Officer, a quarterly return on or before April 20, of the succeeding year, July 31, of the succeeding year, October 31, of the succeeding year, and January 31, of the next succeeding year, and on the same dates of each next succeeding year thereafter, setting forth the actual amount of earned income not subject to withholding by him during the three-month periods ending March 31 of the succeeding year, June 30 of the succeeding year, September 30, of the succeeding year, and December 31, of the succeeding year respectively, and during the same periods for the next succeeding year thereafter, and subject to the tax, together with such other information as the Officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the Officer the amount of tax shown as due thereon.

3. Death of Taxpayer. In the event of the death of taxpayer during a taxable period, his personal representative, or in the absence of a personal representative, his heirs-at-law as designated by the Intestate Act of 1947, as amended, or as hereafter amended or supplemented, shall file his return on or before the 15th day of April of the year following the date of death and on or before such date shall pay any tax due from such deceased taxpayer under this Part 1 or demand refund in the case of overpayment.

(Ord. 1967-1, 5/-/1967, §4)

§105. Collection at Source.

1. Every employer having an office, factory, workshop, branch warehouse, or other place of business within the Township who employs one (1) or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within fifteen (15) days after becoming an employer, register with the Officer his name and address and such other information as the Officer may require.

2. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Township who employs one (1) or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall deduct at the time of payment thereof, the tax imposed by this Part 1 on the earned income due to his employee or employees, and shall on or before October 31, of the current year, and January 31, of the succeeding year, and on or before April 30, of the succeeding year, July 31, of the succeeding year, October 31, of the succeeding year, and January 31, of the next succeeding year, and on or before the same dates of each next succeeding year thereafter, file a return and pay to the Officer the amount of taxes deducted during the preceding three-month periods ending September 30, of the current year, December 31, of the current year, March 31, of the succeeding year, June 30, of the succeeding year, September 30, of the succeeding year, December 31, of the succeeding year, and during the periods ending on the same dates of each next succeeding year thereafter, respectively. Such returns, unless otherwise agreed upon between the Officer and employer, shall show the name and social security number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the fact that the Township is imposing the tax upon such employee, the total earned income of such employee during such preceding three month period, and the total tax deducted therefrom and paid with the return.

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

3. On or before February 28, of the preceding year, every employer shall file with the Officer:

A. An annual return showing the total amount of earned income paid, the total amount of tax deducted, and the total amount of tax paid to the Officer for the period beginning July 1, of the current year and ending December 31, of the current and thereafter, for the period beginning January 1 of each succeeding year and ending December 31, of each succeeding year.

B. A return withholding statement for each employee employed during all or any part of the period beginning July 1, of the current year and ending December 31, of the current year, and for the period beginning January 1 of each succeeding year and ending December 31 of

the succeeding year, and of each next succeeding year thereafter, setting forth the employee's name, address, and social security number, the amount of earned income paid to the employee during aid period, the amount of tax deducted, the fact that the Township is imposing the tax upon such employee, and the amount of tax paid to the Officer. Every employer shall furnish two (2) copies of the individual return to the employee for whom it is filed.

4. Every employer who discontinues business prior to December 31 of the current year, and prior to the same date of each succeeding year, shall, within thirty (30) days after the discontinuance of business, file the returns and withholding statements herein above required and pay the tax due.

5. Except as otherwise required in §9 of the Act, every employer who willfully or negligently fails or omits to make the deductions required by this §105, shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.

6. The failure or omission of any employer to make the deductions required by this §105 shall not relieve any employee from the payment of the tax or from complying with the requirements of this Part 1 relating to the filing of declarations and returns.

(Ord. 1967-1, 5/-/1967, §5)

§106. Powers and Duties of Officer.

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

2. Each Officer, before entering upon his official duties, shall give and acknowledge a bond to the Township. If the Township shall by resolution designate any bond previously given by the Officer as adequate, such bond shall be sufficient to satisfy the requirements of this Subsection (2).

A. Each such bond shall be joint and several, with one (1) or more corporate sureties authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of this Commonwealth.

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

C. Each such bond shall be taken in the name of inter alia the Township, and shall be for the use of inter alia the Township, and for the use of such other person, or persons for whom money shall be

collected or received, or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the Principal on the bond.

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

E. Each such bond shall contain the name or names of the surety company or companies bound thereon. The Township shall fix the amount of the bond at an amount equal to the maximum amount of taxes which may be in the possession of the Officer of any given time.

F. The Board of Supervisors 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 the Board of Supervisors, for the purpose of making the bond sufficient in amount, without releasing the surety or sureties first approved from any accrued liability or previous action on such bond.

G. The Board of Supervisors shall designate the custodian of the bond required to be given by the Officer.

3. The Officer is hereby empowered to prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of this Part 1, 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 make refunds in cases of over-payment 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 1. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution of the Board of Supervisors. A copy of such rules and regulations currently in force shall be available for public inspection.

4. The 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.

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

6. Any information gained by the Officer, his agents, or by any other official or agent of the Township, as the result of any declarations, returns, investigations, hearings or verifications required or authorized by this Part 1, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

7. The Officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

(Ord. 1967-1, 5/-/1967, §6)

§107. Compensation of Income Tax Officer.

1. The Officer may sue in the name of the Township for the recovery of taxes due and unpaid under this Part 1.

2. Any suit brought to recover the tax imposed by this Part 1 shall be begun 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:

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

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

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

D. Where any person has deducted taxes under the provisions of this Part 1, and has failed to pay the amounts so deducted to the Officer, or where any person has willfully failed or omitted to make the deductions required by this §107, there shall be no limitation.

E. This §107 shall not be construed to limit the Board of Supervisors or the Officer from recovering delinquent taxes by any other means provided by the Act. In order to recover such delinquent taxes, the Officer may have recourse to any other provisions contained in the Act relating to the collection of taxes.

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

(Ord. 1967-1, 5/-/1967, §7)

§108. Interest and Penalties.

1. If for any reason, the tax is not paid when due, interest at the rate of six (6%) percent per annum on the amount of said tax, and an additional penalty of one-half (½) of one (1%) percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

(Ord. 1967-1, 5/-/1967, §9)

§109. Fines and Penalties.

1. Any person who fails, neglects, or refuses to make any declaration or return required by this Part 1 or any employer who fails, neglects, or refuses to register or to pay the tax deducted from his employee, or fails, neglects or refuses to deduct or withhold the tax from his employees, or 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 1, shall, upon conviction thereof before any District Justice or court of competent jurisdiction of Juniata County, be sentenced to pay a fine of not more than five hundred (\$500.00) dollars 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.

2. Any person who divulges any information which is confidential under the provisions of this Part 1, shall upon conviction thereof, before any District Justice of Juniata County, be sentenced to pay a fine of not more than five hundred (\$500.00) dollars, for each offense, and costs, and, in default of payment of said fines and costs to be imprisoned for a period not to exceed thirty (30) days.

3. The penalties imposed under this §109 shall be in addition to any other penalty imposed by any other section of this Part 1.

4. The failure of any person to receive or procure forms required for making the declaration or returns required by this Part 1 shall not excuse him for making such declaration or return.

(Ord. 1967-1, 5/-/1967, 5/-/1967, §10)



Part 2

Realty Transfer Tax

§201. Short Title. This Part shall be known as the "Realty Transfer Tax Ordinance of Walker Township." (Ord. 11/1/1999, §201)

§202. Authority. A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within Walker 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.S. §8101-D et seq. (Ord. 11/1/1999, §202)

§203. Definitions.

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

BOARD - this Board of Supervisors of Walker Township, Juniata 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 or foreign country or dependency.

DOCUMENT - any deed, instrument or writing which conveys, transfers, devises, vests, confirms or evidences any transfer or devise 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 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 this Part.

FAMILY FARM CORPORATION - a corporation of which at least seventy-five (75) percent of its assets are devoted to the business of agriculture and at least seventy-five (75) percent of each class of stock of the corporation is continuously owned by members of the same family. The business of agriculture shall include the leasing to members of the same family of property which is directly and principally used for agricultural purposes. 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.

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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.

FAMILY FARM PARTNERSHIP - a partnership of which at least seventy-five (75) percent of its assets are devoted to the business of agriculture and at least seventy-five (75) percent of the interests in the partnership are continuously owned by members of the same family. The business of agriculture shall include the leasing to members of the same family of property which is directly and principally used for agricultural purposes. 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.

LIVING TRUST - any trust, other than a business trust, intended as a will substitute by the settlor which becomes effective during the lifetime of the settlor, but from which trust distributions cannot be made to any beneficiaries other than the settlor prior to the death of the settlor.

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.

ORDINARY TRUST - any trust, other than a business trust or a living trust, which takes effect during the lifetime of the settlor and for which the trustees of the trust take title to property primarily for the purpose of protecting, managing or conserving it until distribution to the named beneficiaries of the trust. An ordinary trust does not include a trust that has an objective to carry on business and divide gains, nor does it either expressly or impliedly have any of the following features: the treatment of beneficiaries as associates, the treatment of the interests in the trust as personal property, the free transferability of beneficial interests in the trust, centralized management by the trustee or the beneficiaries or continuity of life.

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

B. A condominium unit.

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

REAL ESTATE COMPANY - a corporation or association which is primarily engaged in the business of holding, selling or leasing real estate ninety (90) percent or more of the ownership interest in which is held by thirty-five (35) or fewer persons and which:

A. Derives sixty (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 ninety (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, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold including, without limitation, a leasehold interest or possessory interest under a lease or occupancy agreement for a term of thirty (30) years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

TOWNSHIP - Walker Township, Juniata County, Pennsylvania.

TRANSACTION- the making, executing, delivering, accepting or presenting for recording of a document.

VALUE -

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

B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio of assessed values to market values of the taxing district as established by the State Tax Equalization Board, or a commensurate part of the assessment where the assessment includes other real estate.

C. In the case of an easement or other interest in real estate, the value of which is not determinable under subsections (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 or a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Ord. 11/1/1999, §203)

§204. Imposition of Tax; Interest.

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part hereof, a tax at the rate of one (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 thirty (30) days of acceptance of such document or within thirty (30) days of becoming an acquired company.

2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Recorder of Deeds whereon the

date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.

3. It is the intent of this Part that the entire burden of the tax imposed on a person or transfer shall not exceed the limitations prescribed in the Local Tax Reform Act, so that if any other political subdivision or school district have imposed or hereafter shall impose such tax on the same person or transfer then the tax levied by the Township of Walker under the authority of the Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate and such one-half rate shall become effective without any action on the part of Walker Township; provided, however, that Walker Township 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.

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

(Ord. 11/1/1999, §204)

§205. Exempt Parties. The United States, the Commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this Part. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax. (Ord. 11/1/1999, §205)

§206. Excluded Transactions. The tax imposed by 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 line adjustments provided said reconveyance is made within one (1) year from the date of condemnation.

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

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

D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.

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

F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within 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 that are entitled to receive the property or proceeds from the sale of the property under the trust, whether or not such beneficiaries are contingent or specifically named. A trust clause which identifies the contingent beneficiaries by reference to the heirs of the trust settlor as determined by the laws of the intestate succession shall not disqualify a transfer from the exclusion provided by this subsection. 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.

(1) A transfer for no or nominal actual consideration to a trustee of a living trust from the settlor of the living trust. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the living trust instrument.

I. A transfer for no or nominal actual consideration from a trustee of an ordinary trust to a specifically named beneficiary that is entitled to receive the property under the recorded trust instrument or to a contingent beneficiary where the transfer of the same property would be exempt if the transfer was made by the grantor of the property into the trust to that beneficiary. However, any transfer of real estate from a living trust during the settlor's lifetime shall be considered for the purposes of this article as if such transfer were made directly from the settlor to the grantee.

(1) A transfer for no or nominal actual consideration from a trustee of a living trust after the death of the settlor of the trust or from a trustee of a trust created pursuant to the will of a decedent to a beneficiary to whom the property is devised or bequeathed.

(2) A transfer for no or nominal actual consideration from the trustee of a living trust to the settlor of the living trust if such property was originally conveyed to the trustee by the settlor.

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.

(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 subsection.

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 Section.

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

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

O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:

(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.

(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 1954 (68A Stat. 3, 26 U.S.C. §501(c)(3) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open-space opportunities; or a transfer from such a conservancy to the United States, the Commonwealth or to any of their instrumentalities, agencies or political subdivisions; or any transfer from such a conservancy where the real estate is encumbered by a perpetual agricultural conservation easement as defined by the Act of June 30, 1981 (P.L. 128, No. 43),<sup>1</sup> known as the "Agricultural Area Security Law," and such conservancy has owned the real estate for at least two (2) years immediately prior to the transfer.

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

(1) The transfer of real estate devoted to the business of agriculture to a family farm partnership by a member of the same family which family directly owns at least seventy-five (75) percent of the interests in the partnership.

T. A transfer between members of the same family of an ownership interest in a real estate company, family farm corporation or family farm partnership which owns real estate.

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. 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. 11/1/1999, §206)

§207. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof. Except as otherwise provided

in §206, documents which make, confirm or evidence any transfer or demise of title to real estate between association or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purpose of this Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(Ord. 11/1/1999, §207)

§208. Acquired Company.

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change:

A. Does not affect the continuity of the company.

B. Of itself or together with prior changes has the effect of transferring, directly or indirectly, ninety (90) percent or more of the total ownership interest in the company within a period of three (3) years.

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

A. A family farm partnership is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm partnership or when, because of transfer of partnership interests 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 partnership under this Part.

3. Within thirty (30) days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county.

(Ord. 11/1/1999, §208)

§209. Credits Against Tax.

1. Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for this 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.

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2. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of a new previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

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

4. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.

5. If the tax due upon the transfer is greater than the credit given under this Section, the difference shall be paid. If the credit allowed is greater than the amount or tax due, no refund or carry over credit shall be allowed.

(Ord. 11/1/1999, §209)

§210. Extension of Lease. In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established. (Ord. 11/1/1999, §210)

§211. Proceeds of Judicial Sale. The tax herein imposed shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made except the state realty transfer tax and the sheriff or other officer conducting said sale shall pay the tax herein imposed out of the first monies paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax. (Ord. 11/1/1999, §211)

§212. 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 Walker Township based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from Walker Township.

2. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

3. On or before the tenth of each month, the Recorder of Deeds shall pay over to Walker Township all local realty transfer taxes collected, less five (5) percent for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collection of the Pennsylvania realty transfer tax. The five (5) 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 of Deeds shall rerecord the deed or record the additional realty transfer tax form only when both the State and local amounts and a recording or recording fee has been tendered.

(Ord. 11/1/1999, §212)

§213. Statement of Value. Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein and as a part of such document the true, full and complete value thereof shall be accompanied by a statement of value executed by a responsible person in connection 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 of the reason, if any, why such document is not subject to tax under this Part. (Ord. 11/1/1999, §213)

§214. Civil Penalties.

1. If any part of any underpayment of tax imposed by this Part is due to fraud, there shall be added to the tax an amount equal to fifty (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 five (5) percent of the amount of such tax if the failure is for not more than one (1) month, with an additional five (5) percent for each additional month or fraction thereof during which such failure continues, not exceeding fifty (50) percent in the aggregate.

(Ord. 11/1/1999, §214)

§215. Lien. The tax imposed by this Part shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying, being situated, wholly or in part, within the boundaries of the Township of Walker which lands, tenements, hereditaments or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax,

imposed, assessed and levied by this Part, said lien to begin at the time when the tax under this Part is due and payable, and continue until discharge by payment, or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Juniata 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. 11/1/1999, §215)

§216. Enforcement. All taxes imposed by this Part, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered. (Ord. 11/1/1999, §216)

§217. Regulations. The Recorder of Deeds of Juniata 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. 11/1/1999, §217)