

**CHAPTER 24**  
**TAXATION, SPECIAL**

**PART 1**

**EARNED INCOME TAX**

- §101. Imposition of Tax
- §102. Section 13 of Enabling Act Adopted by Reference; Options
- §103. Income Tax Officer

**PART 2**

**OCCUPATIONAL PRIVILEGE TAX**

- §201. Definitions
- §202. Levy of Tax
- §203. Amount of Tax
- §204. When Payable
- §205. Duty of Employers
- §206. Returns
- §207. Dates for Determining Tax Liability and Payments
- §208. Individuals Engaged in More Than One Occupation
- §209. Self-Employed Individuals
- §210. Liability for Tax Imposed on Employees
- §211. Refunds
- §212. Employers and Self-Employed Individuals Residing Beyond the Corporate Limits of Borough
- §213. Administration
- §214. Interest, Penalty and Collection
- §215. Fines and Penalties

**PART 3**

**PER CAPITA TAX**

- §301. Definitions
- §302. Levy of Tax
- §303. Collection of Tax
- §304. Tax Collector to be Bonded
- §305. Evidence of Payment of Tax
- §306. Notice Given
- §307. Discount
- §308. Records to be Kept
- §309. Distress and Sale of Goods and Chattels of Taxpayer
- §310. Lien
- §311. Statutory Authority

- §312. Compensation of Tax Collector
- §313. Exceptions
- §314. Amount of Revenue
- §315. Effective Date

#### PART 4

#### REALTY TRANSFER TAX

- §401. Short Title
- §402. Authority
- §403. Definitions
- §404. Imposition of Tax; Interest
- §405. Exempt Parties
- §406. Excluded Transactions
- §407. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof
- §408. Acquired Company
- §409. Credits Against Tax
- §410. Extension of Lease
- §411. Proceeds of Judicial Sale
- §412. Duties of Recorder of Deeds
- §413. Statement of Value
- §414. Civil Penalties
- §415. Lien
- §416. Enforcement
- §417. Regulations

#### PART 5

#### TAX EXEMPTIONS

- §501. Definitions
- §502. Exemption Schedules
- §503. Exemption Amounts
- §504. Application Procedures
- §505. Eligible Areas
- §506. Termination

**PART 1**  
**EARNED INCOME TAX**

**§101. IMPOSITION OF TAX.**

A tax for general revenue purposes of .5 of 1% is hereby imposed on:

- A. Earned income earned on and after January 1, 1974, by residents of the Borough of East Conemaugh.
- B. Earned income earned on and after January 1, 1974, by nonresidents of the Borough of East Conemaugh, for work done or service performed or rendered in the Borough of East Conemaugh.
- C. Net profits earned on and after January 1, 1974, by residents of the Borough of East Conemaugh.
- D. Net profits earned on and after January 1, 1974, from the operation of businesses, professions or other activity, except corporations, conducted in the said Borough by nonresidents of the Borough of East Conemaugh.

(Ord. 165, 10/18/1965; as reenacted and amended by Ord. 191, 3/18/1974, §1)

**§102. SECTION 13 OF ENABLING ACT ADOPTED BY REFERENCE; OPTIONS.**

Section 13 of the Local Tax Enabling Act of 1965 P.L. 1257 is hereby adopted and incorporated by reference and made a part of this Part, to the same extent as if the full text of the said Section were set out verbatim in this Part, except that:

- A. In the case of net profits, the Borough elects to operate under the option set forth in Subsection III-A(i), requiring an annual return and payment of the tax due on net profits for the preceding year, rather than an annual declaration of estimated net profits and quarterly payments thereof, as provided in Subsection III-A(ii).
- B. In the case of earned income not subject to withholding, the Borough elects to operate under the option set forth in Subsection III-B(1) requiring an annual return and payment of the tax for the preceding year, rather than quarterly returns with accompanying payment of the tax, as set forth in Subsection III-B(2).

(Ord. 165, 10/18/1965; as reenacted and amended by Ord. 191, 3/18/1974, §2)

**§103. INCOME TAX OFFICER.**

TAXATION, SPECIAL

The Borough Council may from time to time appoint and designate a person to serve as Income Tax Officer, and the bond of the Income Tax Officer shall be filed with the Borough Solicitor.

(Ord. 165, 10/18/1965; as reenacted and amended by Ord. 191, 3/18/1974, §3)

**PART 2**

**OCCUPATIONAL PRIVILEGE TAX**

**§201. DEFINITIONS.**

The following words and phrases, when used in this Part, shall have the meanings ascribed to them in this Section, except where the context or language clearly indicates or requires a different meaning:

**BOROUGH OF EAST CONEMAUGH** - the area within the corporate limits of the Borough of East Conemaugh, Cambria County, Pennsylvania.

**COUNCIL** - the Council of the Borough of East Conemaugh, under whose direction this tax shall be enforced.

**EMPLOYER** - an individual, partnership, limited partnership, association, corporation, institution, governmental body or unit or agency, or other entity employing one or more persons on a salary, wage, commission or compensation basis including a self-employed person.

**HE, HIS OR HIM** - the singular and plural number as well as male, female and neuter gender.

**INDIVIDUAL** - any person, male or female, engaged in any occupation, trade or profession of any nature, type or kind whatsoever within the corporate limits of the Borough of East Conemaugh, Cambria County, Pennsylvania.

**OCCUPATION** - any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the Borough of East Conemaugh, for which compensation is charged or received whether by means of salary, wages, commissions or, if the individual is self-employed, by payment for services rendered. "Occupation" shall include one or more employments and also self-employment.

(Ord. 177, 12/12/1969, §1)

**§202. LEVY OF TAX.**

The Borough hereby levies and assesses on each individual engaged in an occupation within its corporate limits an annual occupational privilege tax beginning from the effective date of this Part in the calendar year 1970, and continuing for each calendar year thereafter. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough.

(Ord. 177, 12/12/1969, §2)

## TAXATION, SPECIAL

### §203. AMOUNT OF TAX.

From the effective date of this Part in the calendar year 1970, each individual engaged in an occupation or occupations within the corporate limits of the Borough shall be required to pay an occupational privilege tax at the flat rate of \$5 per annum, said tax to be paid by the individual so engaged.

(Ord. 177, 12/12/1969, §3)

### §204. WHEN PAYABLE.

The occupational privilege tax shall be and payable on the first day of March each year, beginning with March 1, 1970; provided, that in the event any individual engages in an occupation for the first time within the Borough on or after the first day of March of any year, then such tax shall become due and payable one month after such individual first engages in such occupation within the Borough.

(Ord. 177, 12/12/1969, §4)

### §205. DUTY OF EMPLOYERS.

Each employer within the Borough, as well as each employer situated outside the Borough, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Borough the said tax of \$5 per annum, and making a return and payment thereof to the Tax Collector. Further, each employer is hereby authorized to deduct this tax from each employee in his employ, whether said employee is paid by salary, wages or commissions, and whether or not part or all such services are performed within the Borough.

(Ord. 177, 12/12/1969, §5)

### §206. RETURNS.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied by the Tax Collector for the Borough. Each employer in filing his return and making payment of the tax withheld from his employees shall be entitled to retain a commission calculated at the rate of 2% of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages or commission paid by him to said employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him.

(Ord. 177, 12/12/1969, §6)

**§207. DATES FOR DETERMINING TAX LIABILITY AND PAYMENT.**

Each employer shall use his employment records for the month of February for 1970 and for the months of January and February of each succeeding year in determining the names and number of employees from whom said tax shall be deducted and paid over to the Tax Collector; and said tax shall be deducted and paid over to the Tax Collector on or before April 30th of each year. Each employer who engages the services of any individual in an occupation to be performed in the Borough on or after the first day of March of each year shall require said employee to furnish him with a certificate of payment for the Tax Collector showing that the occupational privilege tax has theretofore been paid, or that an occupation privilege tax has been paid to another political subdivision which has priority of claim under the Local Tax Enabling Act of 1965, as amended. In the event such employee has not previously paid his or her occupational privilege tax in the Borough or to another political subdivision with priority of claim, the employer shall deduct the same and pay over the said tax to the Tax Collector in supplemental reports to be filed before the 31st day of July (for new employees hired from March 1 to May 31); the 31st day of October (for new employees hired from June 1 to August 31); and the 31st day of January for the following year (for new employees hired from September 1 to December 31).

(Ord. 177, 12/12/1969, §7)

**§208. INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION.**

Each individual who shall have more than one occupation within the Borough shall be subject to the payment of this tax on his principal occupation, and his principal employer shall deduct this tax and deliver to him evidence of said deduction on a form to be furnished to the employer by the Tax Collector, which form shall be evidence of deduction having been made, and when presented to any other employer shall be authority for each employer to not deduct this tax from the employee's wage but to include such employee on his return setting forth his name, address and the name and account number of the employer who deducted this tax.

(Ord. 177, 12/12/1969, §8)

**§209. SELF-EMPLOYED INDIVIDUALS**

Each self-employed individual who performs services of any type of kind, or engages in any occupation within the Borough, shall be compelled to comply with this Part, and pay the tax to the Tax Collector on the first day of March each year (which shall be the due date), or in the event such self-employment begins on or after the first day of March of any calendar year, then the due date shall be one month after the self-employed person first engages in an occupation within the Borough. In addition, any self-employed individual who is an employer of employees within the Borough shall deduct and pay over the occupation privilege tax for such employees, as heretofore set forth.

(Ord. 177, 12/12/1969, §9)

## TAXATION, SPECIAL

### §210. LIABILITY FOR TAX IMPOSED ON EMPLOYEES.

In any event the employer fails to withhold and make the return of the tax due and owing on his employee, or in the event the tax is not paid by the employer, then the Tax Collector shall have the option of proceeding against either the employer or the employee for the collection of this tax.

(Ord. 177, 12/12/1969, §10)

### §211. REFUNDS.

1. In the event a person is engaged in an occupation which requires his working in more than one political subdivision during the calendar year, and he has paid the occupational privilege tax, or it has been withheld from him, he may apply for a refund of the tax from the Tax Collector and furnish proof of payment of an occupational privilege tax to another political subdivision which has priority of claim for such tax under the Local Tax Enabling Act of 1965, Act No. 511, as amended.
2. The Tax Collector shall receive each application for refund and make his recommendation to the Council thereupon as soon as possible thereafter. In the event the applicant is entitled to a refund, the Council shall by resolution direct the refund to be made by the Treasurer of the Borough.

(Ord. 177, 12/12/1969, §11)

### §212. EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS RESIDING BEYOND THE CORPORATE LIMITS OF THE BOROUGH.

All employers and self-employed individuals, residing or having their place of business outside the Borough of East Conemaugh, but who engage in any occupation or profession within the Borough of East Conemaugh do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Part with the same force and effect as though they were residents of the Borough. Further, any individual engaged in an occupation within the Borough and an employee of a nonresident employer may, for the purposes of this Part, be considered a self-employed person, and in the event this tax is not paid the Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

(Ord. 177, 12/12/1969, §12)

### §213. ADMINISTRATION.

1. The Council shall designate a person who shall be the Tax Collector to collect the occupational privilege taxes. It shall be the duty of the Tax Collector 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 employer or self-



employed person paying the tax, together with the date of such receipt.

2. The Tax Collector shall have all the powers and duties pertaining to the collection of delinquent occupational privilege taxes set forth in the Local Tax Enabling Act of 1965, as amended.
3. The Tax Collector is hereby charged with the administration and enforcement of the provisions of this Part, and 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, including provisions for the examining of the payroll records of any employer subject to this Part and further, for the examination and correction of any returns made in compliance with this Part as to any payment alleged or found to be incorrect, or as to which overpayment is claimed or found to have occurred.
4. The Tax Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer, or if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give to the Tax Collector the means, facilities and opportunity for such examinations and investigations as are hereby authorized.
5. The Tax Collector shall make reports to the Borough Council monthly for all funds received by him, and with each report shall make a return of the funds in his accounts.
6. The Tax Collector shall provide a bond for the faithful performance of his duties in an amount to be fixed by the Borough Council.
7. For his services in collecting the occupational privilege tax, the Tax Collector shall be entitled to a commission of 5% on all taxes, penalties and interest collected by him and shall be reimbursed for any reasonable expenses, including costs for printing, postage and furnishing bond.

(Ord. 177, 12/12/1969, §13)

**§214. INTEREST, PENALTY AND COLLECTION.**

1. In the event any tax under this Part remains due and unpaid 4 months after the due dates above set forth, the Tax Collector may sue for the recovery of any such tax due and unpaid under this Part, together with penalty, interest and costs, as may be appropriate.
2. If there are delinquent occupational privilege taxes owed by any individual employed by any employer, or by the Commonwealth, the Tax Collector may present a written notice and demand under oath or affirmation to such employer and proceed to collect the said delinquent occupational privilege taxes in the manner provided for by the Local Tax Enabling Act of 1965, Act No. 511, as amended. Taxes which are not paid within 4 months after the due date above set forth shall be considered as delinquent occupational privilege taxes.

TAXATION, SPECIAL

(Ord. 177, 12/12/1969, §14)

**§215. FINES AND PENALTIES.**

Whoever makes any false or untrue statement on any return required by this Part; or who refuses inspection of his books, records or accounts in his custody and control setting forth this number of employees subject to this tax who are in his employment; or whoever fails or refuses to file any return required by this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs to a term of imprisonment not to exceed 30 days. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refuses to file a return required by this Part.

(Ord. 177, 12/12/1969, §15; as amended by A.O.)

**§216. SAVINGS CLAUSE.**

1. Nothing contain in this Part shall be construed to empower the Borough to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Borough under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
2. If the tax hereby imposed under the provisions of this Part shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the law of the Commonwealth of Pennsylvania, as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax, or the validity of the tax so imposed on other persons or individuals as herein provided.

(Ord. 177, 12/12/1969, §17)

**PART 3**  
**PER CAPITA TAX**

**§301. DEFINITIONS.**

Unless otherwise expressly stated, the following terms shall have, for the purpose of this Part, the meaning herein indicated:

**PERSON** - any male or female natural person.

**TAXPAYER** - any person required hereunder to pay the per capita tax.

(Ord. 232, 12/17/1979, §1)

**§302. LEVY OF TAX.**

A per capita tax of \$10 for the year 1980, and thereafter, is levied and assessed upon every male or female resident of the Borough who have attained the age of 18 years, provided there is enabling legislation, or the age of 21 years without enabling legislation, which tax shall be in addition to all other taxes levied and assessed by the Borough Council pursuant to any other laws of the Commonwealth of Pennsylvania.

(Ord. 232, 12/17/1979, §2)

**§303. COLLECTION OF TAX.**

Collection of said tax herein imposed shall be made by the Tax Collector of East Conemaugh Borough in the same manner and at the same time as other taxes are collected as provided by the Local Tax Enabling Act of 1965, P.L. 1257, Act No. 511, as amended and supplemented.

(Ord. 232, 12/17/1979, §3)

**§304. TAX COLLECTOR TO BE BONDED.**

The Tax Collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law for other Borough taxes.

(Ord. 232, 12/17/1979, §4)

**§305. EVIDENCE OF PAYMENT OF TAX.**

The entry of said per capita tax in the tax duplicate and issuance of said duplicate to the Tax

## TAXATION, SPECIAL

Collector shall constitute his warrant for the collection of said per capita tax herein levied and assessed.

(Ord. 232, 12/17/1979, §5)

### §306. NOTICE GIVEN.

The Tax Collector shall give notice to the taxpayers at the same time and in the same manner as provided by the Local Tax Enabling Act of 1965, P.L. 1257, Act No. 511, as amended and supplemented.

(Ord. 232, 12/17/1979, §6)

### §307. DISCOUNT.

All taxpayers subject to the payment of the per capita tax herein levied and assessed shall be entitled to a discount of 2% of the amount of such tax upon making payment of the whole amount thereof within 2 months after the date of the tax notice. All taxpayers who fail to make payment of any such taxes charged against them for a period of 4 months after the date of the tax notice shall be charged a penalty of 5%, which penalty shall be added to the taxes by the Tax Collector and be collected by him. The unpaid balance shall bear interest at the rate of 6% per annum.

(Ord. 232, 12/17/1979, §7)

### §308. RECORDS TO BE KEPT.

The Tax Collector shall keep a current account of all per capita tax collected by authority of this Part and shall remit said taxes to the Treasurer of the Borough by separate statement at the same time as other taxes are remitted.

(Ord. 232, 12/17/1979, §8)

### §309. DISTRESS AND SALE OF GOODS AND CHATTELS OF TAXPAYER.

The Tax Collector shall be and is hereby empowered with the authority to collect said tax by distress and sell all goods and chattels of the taxpayer, as provided therefor by the Local Tax Enabling Act of 1965, P.L. 1257, Act No. 511, as amended and supplemented, and to sue for this recovery of taxes due and unpaid under this Part. Where suit is brought for the recovery of such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed. In the collection of any judgment for such delinquent tax, the defendant therein shall not be entitled to the benefit of any exemption, appraisal law or stay of execution.

(Ord. 232, 12/17/1979, §9)

**§310. LIEN.**

There is hereby conferred upon the Tax Collector, the power and authority to demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals employing persons owing per capita taxes, or if in possession of unpaid commissions or earnings belonging to any person owing per capita taxes, upon the presentation of written notice or demand containing the name of the taxable and the amount of the tax due. Upon the presentation of such notice and demand, it shall be the duty of such corporation, political subdivision, association, company, firm or individual, to deduct from the wages, commissions or earnings of such individual employees then owing, or that shall within 60 days thereafter become due, or from any unpaid commissions or earnings of any taxable in its or his possession, or that shall within 60 days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the per capita taxes and costs shown upon the written notice or demand, and to pay the same to the Tax Collector of the Borough within 60 days after such notice shall have been given. The employer shall be entitled to deduct not more than 2% for his expenses for such moneys paid over to the Tax Collector. Upon the failure of such employer to make such deduction, when properly notified as herein provided, such employer shall forfeit and pay the amount of such tax for each taxable whose taxes are not withheld and paid over to the Tax Collector as herein provided, which amount may be recovered by an action of assumpsit in a suit to be entered by the Tax Collector on behalf of the Borough.

(Ord. 232, 12/17/1979, §10)

**§311. STATUTORY AUTHORITY.**

It is the intent of this Part and there is hereby conferred upon the Tax Collector all the powers, together with all the duties and obligations to the same extent and as fully as provided for in the Local Tax Enabling Act of 1965, P.L. 1257, Act No. 511, as amended and supplemented.

(Ord. 232, 12/17/1979, §11)

**§312. COMPENSATION OF TAX COLLECTOR.**

The Tax Collector shall receive as compensation for the collection of any taxes and penalties herein imposed, 5% of all amounts collected under the terms and provisions of this Part, except costs and penalties as hereinbefore provided.

(Ord. 232, 12/17/1979, §11)

**§313. EXCEPTIONS.**

Any person whose total income from any source is less than the amount provided for exceptions through the legislature of the Commonwealth of Pennsylvania should be exempt from this per capita tax or any portion thereof provided application for such exemption is

TAXATION, SPECIAL

made with the Tax Collector of the Borough of East Conemaugh who shall process all such claims for exemptions.

(Ord. 232, 12/17/1979, §13)

**§314. AMOUNT OF REVENUE.**

The amount of revenue estimated to be raised by imposition of this tax is \$3,500.

(Ord. 232, 12/17/1979, §15)

**§315. EFFECTIVE DATE.**

This Part and the tax imposed hereby shall become effective January 1, 1980, and remain in effect year after year thereafter until repealed by the Council of the Borough of East Conemaugh.

(Ord. 232, 12/17/1979, §16)

**PART 4**

**REALTY TRANSFER TAX**

**§401. SHORT TITLE.**

This Part shall be known as the "Realty Transfer Tax Ordinance of the Borough of East Conemaugh."

(Ord. 233, 12/17/1979, §1; as revised by A.O.)

**§402. AUTHORITY.**

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situate within the Borough, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place, as authorized by Article XI-D, "Local Real Estate Transfer Tax," 72 P.S. §8101 *et seq.*

(Ord. 233, 12/17/1979; as revised by A.O.)

**§403. DEFINITIONS.**

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

**BOROUGH** - the Borough of East Conemaugh, Cambria County, Pennsylvania.

**CORPORATION** - a corporation, joint-stock association, business trust or banking institution which is organized under the laws of this Commonwealth, the United States or any other state, territory, foreign country or dependency.

**DOCUMENT** - any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title 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 §402.

**FAMILY FARM CORPORATION** - a corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business of agriculture

## TAXATION, SPECIAL

shall not be deemed to include:

- A. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
- B. The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;
- C. Fur farming;
- D. Stockyard and slaughterhouse operations; or,
- E. Manufacturing or processing operations of any kind.

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

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

### **REAL ESTATE -**

- A. All lands, tenements or hereditaments within this Borough including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.
- B. A condominium unit.
- C. A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

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

- A. Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or,
- B. Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.



**TITLE TO REAL ESTATE -**

- A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years including, without limitation, an estate in fee simple, life estate or perpetual leasehold; or
- B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consist of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold including, without limitation, a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

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

**VALUE -**

- A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against real estate; provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;
- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations;
- C. In the case of an easement or other interest in real estate, the value of which is not determinable under subsections (A) or (B), the actual monetary worth of such interest; or,
- D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

## TAXATION, SPECIAL

(Ord. 233, 12/17/1979; as revised by A.O.)

### §404. IMPOSITION OF TAX; INTEREST.

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.
2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder of deeds whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
3. It is the intent of this Part that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §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 Borough Council under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be 1/2 of the rate and such 1/2 shall become effective without any action on the part of the Borough Council; provided, however, that the Borough and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half (1/2) of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.
4. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due shall be added and collected.

(Ord. 233, 12/17/1979; as revised by A.O.)

### §405. 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. 233, 12/17/1979; as revised by A.O.)

### §406. EXCLUDED TRANSACTIONS.

The tax imposed by §404 shall not be imposed upon:

- A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed or confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments provided said reconveyance is made within 1 year from the date of condemnation.
- B. A document which the Borough is prohibited from taxing under the Constitution or statutes of the United States.
- C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.
- D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- E. A transfer or division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
- F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within 1 year shall be subject to tax as if the grantor were making such transfer.
- G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- I. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- J. A transfer for no or nominal actual consideration from trustee to successor

trustee.

- K. A transfer (i) for no or nominal actual consideration between principal and agent or straw party; or (ii) from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this 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 Part.
- M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than 2 years.
- N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
- O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if: (i) the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and (ii) the agency or authority has the full ownership interest in the real estate transferred.
- P. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferrer for commercial purposes.
- R. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1986, (68A Stat. 3, 26 U.S.C. §501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

- S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
- T. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
- U. A transaction wherein the tax is \$1 or less.
- V. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof. In order to exercise any exclusion provided in this Section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this Part.

(Ord. 233, 12/17/1979; as revised by A.O.

**§407. DOCUMENTS RELATING TO ASSOCIATIONS OR CORPORATIONS AND MEMBERS, PARTNERS, STOCKHOLDERS OR SHAREHOLDERS THEREOF.**

Except as otherwise provided in §406, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this Section, corporations and associations are entities separate from their members, partners, stockholders and shareholders.

(Ord. 233, 12/17/1979; as revised by A.O.

**§408. ACQUIRED COMPANY.**

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of 3 years.
2. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.
3. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate

## TAXATION, SPECIAL

for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

(Ord. 233, 12/17/1979; as revised by A.O.)

### §409. CREDITS AGAINST TAX.

1. Where there is a transfer of a residential property by a licensed real estate broker, which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.
2. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as a consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
3. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
4. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of the tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
5. If the tax due upon the transfer is greater than the credit given under this Section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed.

(Ord. 233, 12/17/1979; as revised by A.O.)

### §410. 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. 233, 12/17/1979; as revised by A.O.)

### §411. PROCEEDS OF JUDICIAL SALE.

The tax herein imposed shall be fully paid and have priority out of the proceeds of any

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

(Ord. 233, 12/17/1979; as revised by A.O.)

#### **§412. DUTIES OF RECORDER OF DEEDS.**

1. As provided in 16 P.S. §11011-6, as amended by Act of July 7, 1983, (P.L. 40, No. 21), the recorder of deeds shall be the collection agent for the local realty transfer tax, including any amount payable to Borough based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Borough.
2. In order to ascertain the amount of the taxes due when the property is located in more than one political subdivision, the recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.
3. On or before the tenth of each month, the recorder shall pay over to the Borough all local realty transfer taxes collected, less 2% for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2% commission shall be paid to the county.
4. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the recorder shall rerecord the deed or record the additional realty transfer tax form only when both the State and local amounts and a rerecording or recording fee has been tendered.

(Ord. 233, 12/17/1979; as revised by A.O.)

#### **§413. 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

## TAXATION, SPECIAL

transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part.

(Ord. 233, 12/17/1979; as revised by A.O.)

### §414. CIVIL PENALTIES.

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

(Ord. 233, 12/17/1979; as revised by A.O.)

### §415. LIEN.

The tax imposed by this Part shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Borough, which lands, tenements, hereditaments or interest therein are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this Part, said lien to begin at the time when the tax under this Part is due and payable, and continue until discharged by payment, or in accordance with the law, and the Solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Cambria 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. 233, 12/17/1979; as revised by A.O.)

### §416. 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. 233, 12/17/1979; as revised by A.O.)

### §417. REGULATIONS.

The Recorder of Deeds of Cambria 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. 233, 12/17/1979; as revised by A.O.

**PART 5**  
**TAX EXEMPTIONS**

**§501. DEFINITIONS.**

For the purposes of this Part, the following words and phrases shall have the meanings set forth below:

**BUSINESS IMPROVEMENT** - repair, new construction or reconstruction of any deteriorated business property, including alterations and additions having the effect of rehabilitating a deteriorated business property so that it becomes habitable or attains higher standards of health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing such standards; provided, however, that ordinary upkeep and maintenance shall not be deemed a business improvement; new construction or erection of a structure as business property upon vacant land within a designated deteriorated area shall be deemed a business improvement.

**BUSINESS PROPERTY** - an industrial, commercial or other business property owned by an individual, association or corporation and shall include, but not be limited to, any portion of a property utilized for industrial, commercial or other business use; business property may include all or a portion of a property utilized as dwelling units and/or commercial use, as more particularly defined by the Borough; it may also include vacant land within a designated deteriorate area.

**DETERIORATED AREAS** - an area within the corporate limits of the Borough of East Conemaugh which, by action of the Borough and pursuant to public hearing, has been determined to meet one or more criteria for the designation of such areas as set forth in Pennsylvania Act No. 76 of 1977 (72 P.S. §4722 *et seq.*), as amended.

**DETERIORATED BUSINESS PROPERTY** - any business property located in a deteriorated area, or any such property which has been the subject of an order by a government agency requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations.

(Ord. 101-87, 3/10/1987, §I)

**§502. EXEMPTION SCHEDULES.**

1. In each deteriorated area so designated as provided for herein, business improvements shall be exempted from Borough real property taxes as further provided for hereinafter, in accordance with the following schedule and related conditions:
  - A. The exemption from taxes claimed under this Part shall be limited to the additional assessment valuation attributed to 100% of the actual cost of any construction and/or improvements to deteriorated properties for five successive calendar years beginning from the date of the first construction.

TAXATION, SPECIAL

2. The exemption from real property taxes granted pursuant to the provisions hereof shall be upon the property exempted and shall not terminate upon the sale or exchange of the property.
3. If an eligible property is granted a tax exemption pursuant to the provisions hereof, the improvements shall not, during the exemption period, be considered as a factor in assessing other properties.

(Ord. 101-87, 3/10/1987, §II)

**§503. EXEMPTION AMOUNTS.**

1. In the case of business improvements, exemption from Borough real property taxes upon completion shall be limited to the additional assessment valuation attributable to the actual cost of improvements.
2. In no case shall any tax exemption be granted pursuant to the provisions hereof if the property owner has not secured or does not secure the necessary and proper zoning, building, health, housing, electrical, plumbing or other required permits prior to initiating the business improvement work.

(Ord. 101-87, 3/10/1987, §III)

**§504. APPLICATION PROCEDURES.**

1. The taxpayers shall apply for the exemption at the time of obtaining a building permit, and shall comply with the procedures established by the County of Cambria.
2. The taxpayer shall also, at the time of obtaining a building permit, submit an application to the Conemaugh Valley School District on a form supplied by the District, which form shall contain the following information:
  - A. The date the building or alteration permit was issued for said improvements.
  - B. The type of improvements.
  - C. The summary of the plan of the improvement.
  - D. The cost of the improvement.
  - E. That the property has been inspected and verified by the designated municipal official.
  - F. Such additional information as may be required by the Board Secretary for the purpose of implementing the provisions hereof.
3. Pursuant to compliance by the taxpayer of the obtaining of a building permit with the

Borough and their application to the School District the Borough Secretary shall forward a copy of an exemption request to the Cambria County Assessor of Taxes.

4. Upon completion of the business improvement, the taxpayer shall provide the Borough Secretary and the Cambria County Assessor of Taxes with a certificate of completion issued by the owner, or an independent architect or professional engineer, so that the assessor may assess the improvements separately for the purpose of calculating the amount of assessment eligible for tax exemption in accordance with the limits established herein. In the absence of said certificate, the Cambria County Assessor may determine the date of completion.
5. The Treasurer of the County of Cambria shall then obtain from the Cambria County Chief Assessor the amount of the assessment eligible for exemption and shall notify the taxpayer in accordance with County ordinances and procedures. The Treasurer of the County of Cambria is authorized to make refunds, if applicable, only after the Cambria County Assessor of Taxes has notified the Treasurer of its separate assessment upon the improvement for which an exemption is requested. Appeals from the reassessment and the amount of eligible for the exemption may be taken by the taxpayer as provided by law.

(Ord. 101-87, 3/10/1987, §IV)

#### **§505. ELIGIBLE AREAS.**

The areas eligible for the exemption as provided by this Part shall be those areas which are bounded and lie within the light industrial areas; commercial area; and all commercial and light industrial properties which are light industrial and commercial nonconforming uses properties within R-1, R-2 areas designated on the Comprehensive Plan for East Conemaugh Borough Zoning Map.

(Ord. 101-87, 3/10/1987, §V)

#### **§506. TERMINATION.**

Unless otherwise repealed or extended by the Borough of East Conemaugh, this Part shall terminate on December 31, 1995. Any property tax exemptions granted under the provisions of this Part shall be permitted to continue according to the exemption schedule established pursuant to the provisions hereof, even if this Part expires or is repealed or amended.

(Ord. 101-87, 3/10/1987, §VI)