

CHAPTER 24

TAXATION, SPECIAL

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Part 1
Realty Transfer Tax

§101. Tax Levied; Title.

1. A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within West Nottingham 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.

2. The Part 1 shall be known and may be cited as the "West Nottingham Township Realty Transfer Tax Ordinances."

(Ord. 1-1987, 6/9/1987, §1)

§102. Definitions.

ACQUIRED COMPANY - a real estate 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, ninety (90%) percent or more of the total ownership interest in the company within a period of three (3) years.

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.

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, transfer, 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 instrument 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 § 106 of this Part 1.

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 not be deemed to include:

(1) Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;

(2) The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;

(3) Fur farming;

(4) Stockyard and slaughterhouse operations; or

(5) Manufacturing or processing operations of any kind.

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 association, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

REAL ESTATE -

(1) Any lands, tenements or hereditaments within this Township, 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.

(2) A condominium unit.

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

REAL ESTATE COMPANY - a corporation or association which is primarily engaged in the business of holding, selling, 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:

(1) Derives sixty (60%) percent or more of its annual gross receipts from the ownership or disposition of real estate; or

(2) Holds real estate, the value of which comprises ninety (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 -

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

(2) Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, including without limitation a leasehold interest or possessory interest under a lease or occupancy agreement for a term of thirty (30) years or more or a leasehold interest or possessory interest in real estate in which the leasee has equity.

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

VALUE -

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

(2) In the case of 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;

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

(4) The actual consideration of 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 principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Ord. 1-1987, 6/9/1987, §2)

§103. 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 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 of Chester County 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 1 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 thereafter shall impose such tax on the same person or transfer then the tax levied by the Township under the authority of that Act shall during the time such duplication of tax exists, except as hereinafter otherwise provided, be one-half (1/2) of the rate and such one-half rate shall become effective without any action on the part of the Township provided, however, that the Township and any other political subdivision which imposes 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. 1-1987, 6/9/1987, §3)

§104. 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 1. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax. (Ord. 1-1987, 6/9/1987, §4)

§105. Excluded Transactions. The tax imposed by §103 shall not be imposed upon:

1. 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.

2. A document which the Township is prohibited from taxing under the constitution or statutes of the United States.

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

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

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

6. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and 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.

7. 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.

8. 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.

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

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

11. 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 1.

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

12. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a non-profit 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 1.

13. 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.

14. A transfer from a non-profit industrial development agency or authority to a grantee of property conveyed by the grantee to the agency or authority as security for a debt of the grantee or a transfer to a non-profit industrial development agency or authority.

15. A transfer from a non-profit 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 conservation, energy production, pollution control, warehousing or agriculture; and (ii) the agency or authority has the full ownership interest in the real estate transferred.

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

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

18. 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.

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

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

21. A transaction wherein the tax due is one (\$1.00) dollar or less.

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

In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. 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 1.

(Ord. 1-1987, 6/9/1987, §5)

§106. Documents Relating to Associations, Corporations and Acquired Companies.

1. Except as otherwise provided in §105 hereof, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and their members, partners, shareholders or

stockholders thereof are fully taxable. For the purposes of this Part 1, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

2. Within thirty (30) days after becoming an acquired company, the company shall present for recording a declaration of acquisition with the Recorder of Deeds of Chester County for the purpose of noting thereon or the affixation thereto of such documentary stamps or evidence of the payment of this tax as required by law. Such declaration shall set forth the value of real estate holdings of the acquired company in Chester County.

(Ord. 1-1987, 6/9/1987, §6)

§107. 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 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 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 demised by the grantor, a credit for the amount of tax paid at the time of the demise shall be given the grantor toward the tax due upon the transfer. 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.

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

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

(Ord. 1-1987, 6/9/1987, §7)

§108. 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, 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. 1-1987, 6/9/1987, §8)

§109. Real Estate or Interest Therein Partially Located in the Township. Where real estate or interest in real estate lying partially within the boundaries of West Nottingham Township and partly without said boundaries is transferred, the tax herein imposed shall be calculated upon such portion of the value as shall be represented by the portion of real estate or interest therein lying within the boundaries of the Township as determined by the Realty Transfer Tax Statement of Value filed with the Recorder of Deeds or if no such filing is required, by affidavit of the transferor, or as separately stated in the document of transfer; provided, however, such value shall in no event be less than the highest assessed valuation for local tax purposes placed upon the real estate or the interest in the real estate in the assessment of the property within the Township. (Ord. 1-1987, 6/9/1987, §9)

§110. Statement of Value. Every document lodged with or presented to the Recorder of Deeds of Chester County for recording shall set forth therein and as part of such document the true, full and complete value thereof. When the full, complete and actual consideration which is subject to the tax is not set forth in document, the person liable for the tax shall, contemporaneously with the filing of the document, file with the Recorder of Deeds a "Realty Transfer Tax Statement of Value" identical to that promulgated by the Department of Revenue of the Commonwealth of Pennsylvania or, in the instance of a "acquired company" a "Realty Transfer Tax Declaration of Acquisition" identical to that promulgated by the Department of Revenue of the Commonwealth of Pennsylvania. The provisions of this section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. (Ord. 1-1987, 6/9/1987, §10)

§111. Recorder of Deeds as Agent for the Township. The tax imposed hereby, including any amount payable to the Township based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania pursuant to §113 hereof, shall be collected by the Recorder of Deeds of Chester County who shall act as agent for the Township in the collection of the transfer tax as provided in 16 P.S. §11011-6, as amended. The tax thus collected shall be payable by the Recorder to the Secretary of West Nottingham Township at least monthly or at such other intervals as the Township and the Recorder of Deeds shall mutually determine. (Ord. 1-1987, 6/9/1987, §11)

§112. Documentary Stamps or Other Evidence of Payment. The payment of the tax imposed by this Part 1 when received by the Recorder of Deeds shall be evidenced by the affixing of a documentary stamp or stamps or other evidence of payment as approved by the Pennsylvania Department of Revenue. (Ord. 1-1987, 6/9/1987, §12)

§113. Determination of Additional Tax Due or Redetermination. In the event a determination or redetermination of transfer tax due is made by the Pennsylvania Department of Revenue pursuant to §1111-C, of Act 1986-77, 72 P. S. §8111-C, such determination or redetermination shall be deemed to have been also made by West Nottingham Township, and there shall be due and owing to the Township, as additional transfer tax, the amount determined or redetermined by the Department to be due the Commonwealth of Pennsylvania.

Upon redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall re-record the document only when the transfer tax imposed by this Part 1 has been paid.

(Ord. 1-1987, 6/9/1987, §13)

§114. Township Secretary as Enforcement Officer. The Secretary of the Board of Supervisors of West Nottingham Township is hereby charged with the enforcement of the provisions of this Part 1 and is hereby authorized and empowered to prescribe, adopt and enforce rules and regulations relating to the registration and notation of transactions, the collection of transfer taxes, interest and penalties due hereunder, the prosecution of violations hereunder, and any other matter pertaining to the administration and enforcement of the provisions of this Part 1. Provided, however, the Regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §1101-C, et seq., as the same are from time to time amended, are incorporated into and made a part of this Part 1, and shall be deemed to have been adopted by the Township of West Nottingham. (Ord. 1-1987, 6/9/1987, §14)

§115. Collection of Delinquent Transfer Taxes and the Imposition of Interest and Penalties.

1. If for any reason a transfer tax is not paid when due, interest at the rate of six (6%) percent per annum on the amount of said tax, and additional penalty of one-half of one (1/2%) percent of the amount of 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 cost of collection and the interest and penalties herein imposed.

2. The transfer tax when due and unpaid, together with all interest and penalties thereon, shall be a lien in favor of the Township on real estate or interest in the real estate which is described in the document on which the tax is imposed, and upon any other property, both real and personal, of the person failing to pay the tax due, after said lien has been entered and adopted of record by the Prothonotary of Chester County in accordance with the Municipal Claims and Tax Liens Law.

3. If any part of any underpayment of tax imposed by this Part 1 is due to fraud, there shall be added to the tax an amount equal to fifty (50%) percent of the underpayment.

4. The tax imposed by this Part 1 shall be collected and enforced in accordance with "The Local Tax Enabling Act." The Township Solicitor is authorized to pursue any and all remedies available by law for collection of the tax, and all such remedies shall be cumulative and not exclusive.

(Ord. 1-1987, 6/9/1987, §15)

§116. Violations. It shall be unlawful for any person to:

A. Accept or present for recording or cause to be accepted or presented for recording any document, without the full amount of the tax thereon being duly paid; or

B. Fail, neglect or refuse to comply with or violate the provisions of this Part 1 or the rules or regulations prescribed, adopted and promulgated under the provisions of this Part 1.

Any person who violates any of the provisions of this section shall be guilty of a summary offense and shall be liable, upon conviction thereof, to a fine not exceeding three hundred (\$300.00) dollars, together with the cost of prosecution and in default of payment of such fine and costs, shall be liable to a term of imprisonment in the County Jail for a period not to exceed ninety (90) days.

(Ord. 1-1987, 6/9/1987, §16; as amended by Ord. 3-1991, 12/30/1991)

§117. Effective Date. This Part 1 and the tax herein levied shall be effective five (5) days after enactment as by law provided and shall remain in effect until amended or repealed. (Ord. 1-1987, 6/9/1987, §18)

Part 2

Earned Income Tax

§201. Definitions. The following words and phrases, when used in this Part 2, shall have the meaning ascribed to them in this section.

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

BUSINESS - an enterprise, activity, profession or any 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 has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is the permanent rather than transitory. Domicile is the place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some other event occurs to induce him to adopt some other permanent home. In the case of businesses, or associations, the domicile is the 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 compensations 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 benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment or payments commonly known as public assistance, or 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.

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

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

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 West Nottingham Township.

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 West Nottingham Township.

SUCCEEDING YEAR - the calendar year following the current year.

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

(Ord. 1-1974, 8/27/1974, §1)

§202. Imposition of Tax. A tax of one (1%) percent is hereby imposed for general Township purposes upon the following:

1. Earned income ,received for activities or services, wherever performed or rendered, by individual residents of West Nottingham Township.

2. Net profits earned from operation of a business, profession or other activity wherever carried on by residents of West Nottingham Township.

3. Earned income received for activities or services performed or rendered within West Nottingham Township by individual nonresidents of West Nottingham Township.

4. Net profits eared from operation of a business, profession or other activity carried on within West Nottingham Township by nonresidents of West Nottingham Township.

(Ord. 1-1974, 8/27/1974, §2; as amended by Ord. 2-1974, 8/29/1974, §2)

§203. Declaration and Payment of Tax.

1. Net Profits.

A. Every taxpayer making net profits shall, on or before September 15, 1974, make and file with the Income Tax Officer on a form prescribed or approved by the Officer, a declaration of his estimated net profits during the period beginning July, 1974, and ending December 31, 1974, and shall pay to the Income Tax Officer the tax due thereon in two (2) equal quarterly installments as follows: the first installment at the time of filing the declaration and the other installment on or before January 15, 1975. Thereafter, every taxpayer

making net profits shall, on or before April 15 of the current year, make and file with the Income Tax 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 then current year, and shall pay to the Income Tax Officer the tax due thereon in four, (4) equal quarterly installments as follows: the first installment at the time of filing the declaration and the other installments on or before June 15 and September 15 of the then current year and January 15 of the next succeeding year.

B. Any taxpayer who first anticipates any net profit after April 15 of the current year, shall make and file on said form a declaration of his estimated net profits during the period beginning on the date he first anticipates any net profit and ending December 31 of the then current year, on or before June 15 or September 15 or December 31 of the then current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the Income Tax Officer in equal installments, the tax due thereon as follows: the first installment at the time of filing the declaration and the other installments on or before the quarterly payment dates which remain after the filing of the declaration.

C. On or before April 15, 1975, every taxpayer shall make and file with the Income Tax Officer, on a form prescribed or approved by the officer, a final return showing the amount of net profits earned during the period beginning July 1, 1974, and ending December 31, 1974, the total amount of the tax due thereon and the total amount of tax paid thereon. On or before April 15 of every year after 1975, every taxpayer shall make and file with the Income Tax Officer, on a form prescribed or approved by the Officer, a final return showing the amount of net profits earned during the period beginning January 1, and ending December 31 of the immediately prior year, 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.

In lieu of paying the fourth quarterly installment of his estimated tax for any year, any taxpayer may elect to make and file with the Income Tax Officer on or before January 31 of the succeeding year, the final return as hereinabove required and pay the balance of tax due or make demand for refund or credit in the case of overpayment.

D. The Income Tax Officer may provide for the making and filing of adjusted declarations of estimated net profits and for the payment 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 any year shall, within thirty (30) days after the discontinuance of business, file his return as hereinabove required and pay the tax due.

2. Earned Income.

A. Annual Earned Income Tax Return. On or before April 15, 1975, every taxpayer shall make and file with the Income Tax Officer on a form prescribed or approved by the Officer, a final return showing the amount of earned income received during the period beginning July 1, 1974 and ending December 31, 1974, 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. On or before April 15 of every year after 1975, every taxpayer shall make and file with the Income Tax Officer on a form prescribed or approved by the Officer, a final return showing the amount of earned income received during the period beginning January 1 and ending December 31 of the immediately prior year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax 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 make and file with the Income Tax Officer, on a form prescribed or approved by the Officer, a quarterly return on or before April 30, July 31, October 31, of the current year and January 31 of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding received by him during the three (3) month periods ending March 31, June 30, September 30 and December 31 of the then current year, respectively, and subject to this tax, together with such other information as the Office may require. Every taxpayer making such returns shall, at the time of filing thereof, pay the Officer the amount of tax shown as due thereon.

(Ord..1-1974, 8/29/1974, §3)

§204. Collection at Source.

1. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the West Nottingham Township, who on July 1, 1974, employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall on or before July 15, 1974, register with the Officer his name and address and such other information as the Officer may require. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the West Nottingham Township who after July 1, 1974, employs for the first time after that date one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation shall within fifteen (15) days after becoming an employer, register with the Office 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 West Nottingham Township who employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof, the tax imposed by this Part 2 on the earned income due to his employee or employees, and shall, on or before April 20, July 31, and October 31, of the current year and January 31 of the succeeding year, file a return and pay to the Income Tax Officer the amount of taxes deducted during the preceding three (3) month period ending March 31, June 30, September 30, and December 31, respectively. Each such return filed, unless otherwise agreed upon between the Income Tax Officer and the employer shall show the name and social security number of each such employee, the earned income of such employee during the preceding three (3) month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total earned income of all such employees during such preceding three (3) month period, and the total tax deducted therefrom and paid with the-return.

Any employer who for two (2) of the preceding four (4) quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the Income Tax Officer may be required by the Income Tax 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 every year after 1974 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, 1974, and ending December 31, 1974 and thereafter for the period beginning January 1 and ending December 31 of the immediately prior year.

B. A return withholding statement for each employee employed during all or part of the period beginning January 1 and ending December 31 of the immediately prior year, setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, and the amount 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 a current year shall, within thirty (30) days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

5. Except as otherwise provided by §9 of the Act of General Assembly of the Commonwealth of Pennsylvania, approved the 31st day of December, 1965, P.L. 1257, as amended, known as "The Local Tax Enabling Act," every employer who willfully or negligently fails or omits to make the deductions required by this §204 of this Part 2 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 deduction required by this §204 of this Part 2 shall not relieve any employee from the payment of the tax or from complying with the requirements of this Part 2 relating to the filing of declarations and returns.

(Ord. 1-1974, 8/29/1974, §4)

§205. Powers and Duties of Income Tax Officer.

1. It shall be the duty of the Income Tax Officer to collect and receive the taxes, fines and penalties imposed by this Part 2. 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. The Income Tax Officer before entering upon his official duties, shall give and acknowledge a bond to the West Nottingham Township in such amount as may be fixed from time to time by resolution of the Board of Supervisors of West Nottingham Township, which amount shall be equal to the maximum amount of taxes which may be in the possession of the Officer at any given time. If the Board of Supervisors of West Nottingham Township shall by resolution designate any bond previously given by the Income Tax Officer as adequate, such previously given bond shall satisfy the requirements of this subsection.

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

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

Said bond shall be taken in the name of West Nottingham Township and shall be for the use of West Nottingham 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 of said bond by the acts or neglect of the principal on the bond.

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

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

The West Nottingham Township 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 said Township 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 in said bond.

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

3. The Income Tax Officer is hereby empowered to prescribe, adopt and promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part 2, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in case of overpayment, for any period of time not to exceed six (6) years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of this Part 2. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution of the Board of Supervisors of West Nottingham Township. A copy of all such rules and regulations from time to time in force shall be available for public inspection at the office of the Income Tax Officer.

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

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

6. Any information gained by the Income Tax Officer, his agent, or by any other official or agent of the West Nottingham Township, as a result of any declarations, returns, investigations, hearings, or verifications required or authorized by this Part 2, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

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

(Ord. 1-1974, 8/29/1974, §5)

§206. Compensation of Income Tax Officer. The Income Tax Officer shall receive such compensation for his services and expenses as determined from time to time by the Board of Supervisors of West Nottingham Township. (Ord. 1-1974, 8/29/1974, §6)

§207. Suit for Collection of Tax.

1. The Income Tax Officer may sue in the name of West Nottingham Township for the recovery of taxes due and unpaid under this Part 2.

2. Any suit brought to recover the tax imposed by this Part 2 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 2, 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 provisions of this Part 2, and has failed to pay the amount so deducted to the Income Tax Officer, or where any person has wilfully failed or omitted to make the deductions required by this section, there shall be no limitation.

E. This section shall not be construed to limit the Board of Supervisors of West Nottingham Township from recovering delinquent taxes by any other means provided by this Part 2 or by other appropriate law.

3. The Income Tax Officer may sue for recovery of an erroneous refund provided such suit is begun within 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. 1-1974, 8/29/1974, §7)

§208. Interest and Penalties. 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 of one (1/2%) percent of the amount of 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 therefor shall in addition, be liable for the cost of collection and the interest and penalties herein imposed. (Ord. 1-1974, 8/29/1974, §8)

§209. Fines and Penalties.

1. Any person who fails, neglects, or refuses to make any declaration or return required by this Part 2, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or

fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the Officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false, or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part 2, shall, upon conviction thereof before any District Justice or court of competent jurisdiction in the County of Chester, shall 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 shall be imprisoned for a period not exceeding ninety (90) days.

2. Any person who divulges any information which is confidential under the provisions of this Part 2, shall, upon conviction thereof before any District Justice or court of competent jurisdiction, 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 shall be imprisoned for a period not exceeding ninety (90) days.

3. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Part 2.

4. The failure of any person to receive or procure forms required for making the declaration or returns required by this Part 2, shall not excuse him from making any such declaration or return.

(Ord. 1-1974, 8/29/1974, §9; as amended by Ord. 3-1991, 12/30/1991)

§210. Payment of Tax to Other Political Sub-Divisions or States as a Credit or Deduction. Credits or deductions against liability for the tax hereby imposed shall be allowed for payments to other political sub-divisions or states as now or hereafter provided by law, including by way of illustration and not by way of limitation, those payments enumerated in §214 of The Local Tax Enabling Act, as amended. (Ord. 1-1974, 8/29/1974, §10)

§211. Collection of Tax. To collect the tax hereby imposed, the Income Tax Officer and West Nottingham Township, shall have all the rights, powers and privileges now or hereafter authorized by law including, by way of illustration and not by way of limitation, those enumerated in sections 18, 19, 20 and 21 of The Local Tax Enabling Act, as amended. (Ord. 1-1974, 8/29/1974, §11)

§212. Effective Date. This Part 2 shall take effect thirty (30) days after enactment. (Ord. 1-1974, 8/29/1974, §13)

Part 3

Per Capita Tax

§301. Authority for Enactment. A per capita tax of ten (\$10.00) dollars per annum be, and the same is hereby levied and assessed upon each resident or inhabitant of West Nottingham Township over eighteen (18) years of age, with credit up to fifty (50%) percent, not exceeding five (\$5.00) dollars per person for payment of a per capita tax to the Oxford Area School District under levy or resolution thereof, adopted pursuant to the same enabling legislation under which this is enacted to wit: The Local Tax Enabling Act of 1965 (Act 511, effective January 1, 1966) as amended and supplemented, which tax shall be in addition to all other taxes levied and assessed by West Nottingham Township pursuant to any other laws of the Commonwealth of Pennsylvania. (Ord. 3-1972, 12/5/1972, §1)

§302. Collection. Said tax shall be collected by the duly elected or appointed Tax Collectors of Township taxes for West Nottingham Township in the same manner and at the same time or times as other Township taxes are collected, as provided by the Local Tax Enabling Act of 1965 (Act 511, effective January 1, 1966) as amended and supplemented. (Ord. 3-1972, 12/5/1972, §2)

§303. Bonds. The Tax Collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law for other Township taxes. (Ord. 3-1972, 12/5/1972, §3)

§304. Duplication. The entry of said per capita tax in the duplicate and issuance of said duplicate to the Tax Collector shall constitute his warrant for the collection of said per capita tax hereby levied and assessed. (Ord. 3-1972, 12/5/1972, §4)

§305. Expenses and Compensation of Tax Collector. The expenses of collection and compensation of the Tax Collector shall be paid and allowed as provided in the Local Tax Enabling Act of 1965 (Act 511, effective January 1, 1966) as amended and supplemented, which compensation shall be the same as fixed from time to time by West Nottingham Township for the collection of other Township taxes. (Ord. 3-1972, 12/5/1972, §5)

§306. Notice to Taxpayers. 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 (Act 511, effective January 1, 1966) as amended and supplemented. (Ord. 3-1972, 12/5/1972, §6)

§307. Nonpayment of Tax. In the case the Tax Collector or a deputy Tax Collector shall at any time find within West Nottingham Township any resident or inhabitant above the age of eighteen (18) years, whose name does not appear to the Assessor, who shall thereupon certify same unto West Nottingham Township, which shall promptly certify the same to the Tax Collector reporting said name, whereupon the Tax Collector shall add the name and the assessment of the per capita tax against such person to the duplicate of West Nottingham Township and proceed to collect same. (Ord. 3-1972, 12/5/1972, §7)

§308. Authority of Tax Collector. 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 (Act 511, effective January 1, 1966) as amended and supplemented. (Ord. 3-1972, 12/5/1972, §8)

§309. Power and Authority of Tax Collector to Collect from Businesses. 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 whose wife owes per capita taxes, or if in possession of unpaid commissions or earnings belonging to any person owing per capita taxes or whose wife owes per capita taxes, upon the presentation of written notice and demand containing the name of the taxable, or husband thereof, and the amount of tax due. Upon the presentation of such written notice and demand it shall be the duty of such corporation, political sub-division, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees then owing or that shall within sixty (60) days thereafter become due, or from any unpaid commissions or earnings of any taxable in its or his possession, or that shall within sixty (60) days thereafter come into it or his possession, a sum sufficient to pay the respective amount of the per capita taxes and costs shown upon the written notice of demand, and to pay the same to the Tax Collector of West Nottingham Township within sixty (60) days after such notice shall have been given, the employer shall be entitled to deduct not more than two (2%) percent 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 such 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 instituted by the Tax Collector on behalf of the Township of West Nottingham. (Ord. 3-1972, 12/5/1972, §9)

§310. Record of Taxes Paid. The Tax Collector shall keep a correct account of all per capita taxes collected by authority of this Part 3. He shall mark the same paid on each duplicate at the name of each taxable, and the date on which payment was made. The Tax Collector shall remit said taxes to the Treasurer of West Nottingham Township by a separate statement at the same time as other taxes are remitted to West Nottingham Township. (Ord. 3-1972, 12/5/1972, §10)

§311. Taxpayers Subject to Payment. All taxpayers subject to the payment of the per capita taxes herein levied and assessed shall be entitled to a discount of two (2%) percent of the amount of such tax upon making payment of the whole amount thereof within two (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 four (4) months after the date of the tax notice shall be charged a penalty of five (5%) percent, which penalty shall be added to the taxes by the Tax Collector and be collected by him. (Ord. 3-1972, 12/5/1972, §11)

§312. Intent. It is the intent of this Part 3 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 provided for in the Local Tax Enabling Act of 1965 (Act 511, effective January 1, 1966) as amended and supplemented. (Ord. 3-1972, 12/5/1972, §12)

§313. Effective Date. This Part 3 shall go into effect five (5) days after its adoption by the Supervisors of West Nottingham Township. (Ord. 3-1972, 12/5/1972, §15)

