

## **Chapter 24**

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**Part 1****Earned Income Tax****§24-101. Short Title.**

This Part shall be known as the “Northampton Township Earned Income Tax Ordinance.”

(*Ord. 387, 8/10/1994*)

**§24-102. Incorporation of Statute.**

This Part is enacted and adopted under and by virtue of the authority of the Act of December 31, 1965, P.L. 1257, 53 P.S. §6924.101 *et seq.*, the Local Tax Enabling Act, and its supplements and amendments. This Act is incorporated herein by reference, except that where options are provided in §§13 and 14 of the Act (53 P.S. §§6913 and 6914), this Part designates the options selected.

(*Ord. 387, 8/10/1994*)

**§24-103. Definitions.**

The terms used in this Part shall have the definitions ascribed to them by §1 of the Local Tax Enabling Act, 53 P.S. §6913, Subdivision I, “Definitions.”

(*Ord. 387, 8/10/1994*)

**§24-104. Imposition of Tax.**

A tax for general revenue purposes in the amount of 1 percent is hereby imposed on earned income, including, inter alia, salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by residents of Northampton Township and on earned income, including, inter alia, salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by nonresidents of Northampton Township for work done or services performed or rendered in Northampton Township and on the net profits received from businesses, professions or other activities conducted by residents of Northampton Township and the net profits received from businesses, professions or other activities conducted in Northampton Township by nonresidents of Northampton Township, beginning July 1, 1994, and continuing for each succeeding year from January 1 through December 31.

(*Ord. 387, 8/10/1994*)

**§24-105. Declaration of Profit; Filing of Returns; Payment of Taxes.**

1. *Net Profits.*

A. Every taxpayer making net profits shall, on or before April 15 of the current year, make and file with the Officer, on a form prescribed or approved by the Officer, a declaration of his or her estimated net profits during the period beginning, in 1994, on July 1, 1994, and ending December 31, 1994, and, in each year after 1994, for the period beginning January 1 of the current year and ending December 31 of the current year, and pay to the Officer in four equal quarterly

installments the tax due thereon as follows: the first installment at the time of filing the declaration and the other installments on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.

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

C. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Officer, on a form prescribed or approved by the Officer, a final return showing the amount of net profits earned during the period beginning, in 1994, on July 1, 1994, and ending December 31, 1994, and, after 1994, for the period beginning January 1 of the current year and ending December 31 of the current 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.

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

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

## 2. *Earned Income.*

A. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Officer, on a form prescribed or approved by the Officer, a final return showing the amount of earned income received during the period beginning on July 1, 1994, and ending December 31, 1994, for 1994, and for the period beginning January 1 of the current year and ending December 31 of the current year for all years succeeding 1994, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

B. *Earned Income Not Subject to Withholding.* Every taxpayer who is employed for a salary, wage, commission or other compensation and who received any earned income not subject to the provisions relating to collection at source shall make and file with the Officer, on a form prescribed or approved by the Officer, a quarterly return on or before April 30 of the current year, July 31 of the current year, 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 by the taxpayer during the 3-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the

current year, respectively, and subject to the tax, together with such other information as the Officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the Officer the amount of the tax shown as due thereon.

(*Ord. 387, 8/10/1994*)

**§24-106. Collection at Source.**

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

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

3. Any employer who for two of the preceding four 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 Northampton Township, Bucks County, Pennsylvania, may be required by the Officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the Officer on or before the last day of the month succeeding the month for which the tax was withheld.

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

A. An annual return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to the Officer for the period beginning on July 1, 1994, and ending December 31, 1994, for 1994, and for the period beginning January 1 of the current year and ending December 31 of the current year for all years succeeding 1994.

B. A return withholding statement for each employee employed during all or any part of the period beginning on July 1, 1994, and ending December 31, 1994, for the year 1994, and during all or any part of the period beginning January 1 of

the current year and ending December 31 of the current year for all years succeeding 1994, 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 name of Northampton Township, Bucks County, Pennsylvania, which is the political subdivision imposing the tax upon such employee, and the amount of tax paid to the Officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

5. Every employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

6. Any employer who willfully or negligently fails or omits to make the deductions required by this Part 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.

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

(Ord. 387, 8/10/1994)

#### **§24-107. Administration.**

The Income Tax Officer shall be selected from time to time by resolution of the Board of Supervisors of Northampton Township and shall receive such compensation for his services and expenses as determined from time to time by the Northampton Township Board of Supervisors pursuant to 53 P.S. §6913, Subdivision VI, "Compensation of Income Tax Officer," as amended. Such Officer shall have the powers and duties set forth in 53 P.S. §6913, Subdivision V, "Powers and Duties of Officer," as amended, and shall be subject to the penalties set forth in The Local Tax Enabling Act, 53 P.S. §6924.101 *et seq.*, as amended.

(Ord. 387, 8/10/1994)

#### **§24-108. Nonapplicability.**

The tax imposed in §24-104 of this Part shall not be levied on net profits of any person, institution or organization as to whom or to which it is beyond the power of the Board of Supervisors of Northampton Township to impose said tax under the Constitution of the United States of America or the Constitution and laws of the Commonwealth of Pennsylvania.

(Ord. 387, 8/10/1994)

#### **§24-109. Credits.**

1. Payments of any tax on income to any state other than Pennsylvania or to any political subdivision thereof by residents thereof pursuant to any State or local law, to the extent that such income includes salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation or net profits of businesses, professions or other activities, but in such proportions as hereinafter set forth, shall be credited to and allowed as a deduction from the liability of such person for the tax imposed by this Part on salaries, wages, commissions bonuses, incentive payments, fees, tips and other

compensation or net profits of businesses, professions or other activities, if residents of Northampton Township receive credits and deductions of a similar kind to a like degree from the tax on income imposed by the other State or political subdivision thereof.

2. Where a credit or a deduction is allowable, it shall be allowed in proportion to the concurrent periods for which taxes are imposed by the other State or respective political subdivision, but not in excess of the amount previously paid for a concurrent period.

(*Ord. 387, 8/10/1994*)

**§24-110. Enforcement and Penalties.**

1. Any person who fails, neglects, or refuses to make any declaration or return required by this Part, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects, or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part, shall, upon conviction therefor before any magisterial district judge, or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and in default of payment, to be imprisoned for a period not exceeding 30 days.

2. Any person who divulges any information which is confidential under the provisions of this Part, shall, upon conviction therefor, before any magisterial district judge, or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and in default of payment, to be imprisoned for a period not exceeding 30 days.

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

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

(*Ord. 387, 8/10/1994; as amended by Ord. 561, 4/25/2012*)



**Part 2****Local Services Tax****§24-201. 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:

*Political subdivision*—the area within the corporate limits of Northampton Township, Bucks County, Pennsylvania.

*Collector*—the person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.

*DCED*—the Department of Community and Economic Development of the Commonwealth of Pennsylvania.

*Earned income*—compensation as this term is defined in §13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, §13, as amended, 53 P.S. §6913, as amended.

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

*He, his or him*—indicates the singular and plural number, as well as male, female and neuter genders.

*Individual*—any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.

*Net profits*—the net income from the operation of a business, profession; or other activity, as this term is defined in §13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of Dec. 31; 1965, P.L. 1251, §13, as amended, 53 P.S. §6913, as amended.

*Occupation*—any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of the political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.

*Tax*—the local services tax at the rate fixed in §24-202 of this Part.

*Tax year*—the period from January 1 until December 31 in any year; a calendar year.

(Ord. 533, 12/10/2008)

**§24-202. Levy of Tax.**

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2009; upon the privilege of engaging in an occupation with a primary place of employment within Northampton Township during the tax year. Each

natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$52, assessed on a pro rata basis, in accordance with the provisions of this Part. This tax may be used solely for the following purposes as the same may be allocated by the Board of Supervisors from time to time: (A) emergency services, which shall include emergency medical services, police services and/or fire services; (B) road construction and/or maintenance; (C) reduction of property taxes; or (D) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S., Ch. 85, Subch. F (relating to homestead property exclusion). The political subdivision shall use no less than 25 percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed.

(Ord. 533, 12/10/2008)

### **§24-203. Exemption and Refunds.**

1. *Exemption.* Any person whose total earned income and net profits from all sources within the political subdivision is less than \$12,000 for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

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

B. Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this paragraph, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

2. *Procedure to Claim Exemption.*

A. A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than \$12,000 in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by paragraph .B, the employer shall not withhold the tax from

the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.

B. With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the municipality in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person under paragraph .C.

C. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under paragraph .B, the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under paragraph .B, a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this paragraph is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this Part.

D. Except as provided in paragraph .B, it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

3. *Refunds.* The Board of Supervisors, in consultation with the collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The Board of Supervisors or the collector shall determine eligibility for exemption and provide refunds to exempt persons.

(Ord. 533, 12/10/2008)

#### **§24-204. Duty of Employers to Collect.**

1. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the

political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.

2. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in subsection .4 of this Section, for purposes of this subsection, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the Township.

3. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

4. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within 2 weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

5. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.

6. No employer shall he held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of §24-203.2 of this Part and this Section and remits the amount so withheld in accordance with this Part.

7. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of a calendar year.

(Ord. 533, 12/10/2008)

#### **§24-205. Returns.**

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the

salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this Part, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

(*Ord. 533, 12/10/2008*)

**§24-206. Dates for Determining Tax Liability and Payment.**

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the collector on or before the thirtieth day following the end of each calendar quarter of each such tax year.

(*Ord. 533, 12/10/2008*)

**§24-207. Self-Employed Individuals.**

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this Part and pay the pro rata portion of the tax due to the collector on or before the thirtieth day following the end of each quarter.

(*Ord. 533, 12/10/2008*)

**§24-208. Individuals Engaged in More than One Occupation or Employed in More than One Political Subdivision.**

1. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:

A. First, the political subdivision in which a person maintains his or her principal office or is principally employed.

B. Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision.

C. Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

(*Ord. 533, 12/10/2008*)

**§24-209. Nonresidents Subject to Tax.**

All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision 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 political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this Part, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

(Ord. 533, 12/10/2008)

#### **§24-210. Administration of Tax.**

1. The collector shall be appointed by resolution of the political subdivision. It shall be the duty of the collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer of self-employed person, together with the date the tax was received.

2. The collector is hereby charged with the administration and enforcement of this Part and is hereby charged and empowered, subject to municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination of payroll records of any employer subject to this Part, the examination and correction of any return made in compliance with this Part and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the collector shall have the right to appeal consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998 (municipalities may detail their appeal processes).

3. The 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 the collector the means, facilities and opportunity for such examination.

(Ord. 533, 12/10/2008)

#### **§24-211. Suits for Collection.**

1. In the event that any tax under this Part remains due or unpaid 30 days after the due dates above set forth, the collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.

2. If for any reason the tax is not paid when due, interest at the rate of 6 percent on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5 percent shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection.

(Ord. 533, 12/10/2008)

#### **§24-212. Violations and Penalties.**

Whoever makes any false or untrue statement on any return required by this Part, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return, required by this Part, upon

being found liable therefor in a civil enforcement proceeding commenced by the Township, shall pay a judgment of not more than \$600 plus all court costs. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by a magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues or each Section of this Part which shall be found to have been violated shall constitute a separate violation. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this Part.

(*Ord. 533, 12/10/2008; as amended by Ord. 561, 4/25/2012*)

**§24-213. Interpretation.**

1. Nothing contained in this Part shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision 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 laws 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. 533, 12/10/2008*)



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

This Part shall be known as the “Realty Transfer Tax Ordinance of Northampton Township.”

(*Ord. 245, 1/5/1987*)

**§24-302. Statutory Authority.**

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

(*Ord. 245, 1/5/1987*)

**§24-303. Definitions.**

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

*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.

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

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

- (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.
- (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 half blood or legal adoption shall be treated as if they were related by 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*—

(1) All lands, tenements or hereditaments within the 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 or leasing real estate, 90 percent or more of the ownership interest in which is held by 35 or fewer persons, and which:

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

(2) Holds real estate, the value of which comprises 90 percent or more of the value of its entire tangible asset holdings, exclusive of tangible assets which are freely transferable and actively traded as 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 or perpetual leasehold.

(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 term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

*Township*—Northampton Township, Bucks County, Pennsylvania.

*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 for the contract of sale.

(2) 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 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, as established by the State Tax Equalization Board.

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

(4) The actual consideration for or actual monetary worth of an 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. 245, 1/5/1987)

**§24-304. Payment of Tax; Evidence of Payment; Intent; Interest.**

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

2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Recorder of Deeds. whereon the date of the payment of the tax, the amount of the tax and the signature of the collecting agent shall be set

forth.

3. It is the intent of this Part that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §6924.101 *et seq.*, so that, if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer, then the tax levied by the Board of Supervisors under the authority of that Act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be half of the rate, and such 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 impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to half of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.

4. 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. 245, 1/5/1987)

#### **§24-305. Exempt Parties.**

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

(Ord. 245, 1/5/1987)

#### **§24-306. Excluded Transactions.**

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

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

B. A document which the Township 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 a sheriff's 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 takes a share greater in value than his 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 that 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 the spouse of a brother or sister and brother or sister or the spouse of a brother or sister and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within 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 for no or nominal actual consideration between principal and agent or straw party, or 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 in the corporation or an interest in the association in the same proportion as his interest in the 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 or the grantee or a transfer to a nonprofit industrial development agency or authority.

O. A transfer from a nonprofit industrial development agency or authority to

a grantee purchasing directly from it, but only if:

(1) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture.

(2) The agency or authority has the full ownership interest in the real estate transferred.

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

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

R. A transfer to a conservancy which possesses a tax-exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. §501(c)(3)) and which has as its primary purpose the preservation of land for historic, recreational, scenic, agricultural or open-space opportunities.

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

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

U. A transaction wherein the tax due is \$1 or less.

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

2. 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. 245, 1/5/1987)*

#### **§24-307. Documents to Be Taxable.**

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

*(Ord. 245, 1/5/1987)*

#### **§24-308. Acquired Companies.**

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 effect the continuity of the company and, of itself or together with prior changes, has the effect of transferring, directly or indirectly, 90 percent or more of the total ownership interest in the company within a period of 3 years.

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

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

(*Ord. 245, 1/5/1987*)

#### **§24-309. Credits Against Tax.**

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

2. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as 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 tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.

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

(*Ord. 245, 1/5/1987*)

#### **§24-310. Determinations by Department of Revenue.**

Whenever the amount of tax due to the Commonwealth of Pennsylvania pursuant to 72 P.S. §8101-C *et seq.*, upon final determination, redetermination or review by the Department of Revenue, is less than the amount actually paid to the Commonwealth on account thereof, such amount, including all interest or penalties thereon, shall be

deemed to be the amount due and payable to the Township pursuant to this Part and shall be collectible by the Recorder of Deeds upon rerecording as hereinafter provided. If the amount of such tax as finally determined is more than the amount actually paid, then upon application to the Township, together with proof of payment and final determination by the Department of Revenue, the Township shall refund such portion of the overpayment that the Township actually received. All applications for refunds must be received by the Township within 2 years of the date of payment for which a refund is requested.

*(Ord. 245, 1/5/1987)*

**§24-311. 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. 245, 1/5/1987)*

**§24-312. 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 cost of the sale and of the writ upon which the sale is made, except the State realty transfer tax, and the sheriff or other officer conducting said sale shall pay the tax herein imposed out of the first 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. 245, 1/5/1987)*

**§24-313. 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 the Township based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Township.

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

3. On or before the tenth of each month, the Recorder shall pay over to the Township all local realty transfer taxes collected, less 2 percent for the use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2 percent commission shall be paid to the county.

4. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only when both the State and local amounts and a rerecording or recording fee has been tendered.

(*Ord. 245, 1/5/1987*)

**§24-314. Statement of Value.**

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

(*Ord. 245, 1/5/1987*)

**§24-315. Violations and Penalties.**

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

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

3. In addition to the penalties prescribed in subsections .1 and .2 above, any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Part, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, shall pay a judgment of not more than \$600 plus all court costs. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by a magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues or each Section of this Part which shall be found to have been violated shall constitute a separate violation. [*Ord. 561*]

(*Ord. 245, 1/5/1987; as amended by Ord. 285, 2/22/1989; and by Ord. 561, 4/25/2012*)

**§24-316. Liens.**

The tax imposed by this Part shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying or being situated, wholly or in part, within the boundaries of the Township, which lands, tenements or hereditaments, or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this Part, said lien to begin at the time when the tax under this Part is due and payable and continue until discharge by payment,

or in accordance with the law, and the Solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Bucks County, in accordance with the provisions of the Municipal Claims and Tax Liens Act of 1923, 53 P.S. §7101 *et seq.*, and its supplements and amendments.

(*Ord. 245, 1/5/1987*)

**§24-317. Collection of Tax.**

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

(*Ord. 245, 1/5/1987*)

**§24-318. Enforcement.**

The Township Manager of the Township is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for the 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.*, to the extent that they are applicable, are incorporated into and made a part of this Part.

(*Ord. 245, 1/5/1987*)