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Part 1

Earned Income Taxes

§101. Definitions.

The Council of the Borough of Hollidaysburg ordains that the following words when used in this Part, shall have the meaning ascribed to them in this section, except where the context clearly indicated or requires a different meaning.

ASSOCIATION — a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

BUSINESS — an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, co-partnership, association or any other entity.

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

EMPLOYER — an individual, co-partnership, association, corporation, governmental body or unit or agency, or any other entity, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.

NET PROFITS — the net gain from the operation of a business, profession, or enterprise, after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used and without deduction of taxes based on income.

NONRESIDENTS — an individual, co-partnership, association, or other entity domiciled outside of the Borough of Hollidaysburg.

PERSON — every natural person, co-partnership, fiduciary, association or corporation (except any corporation which is exempt from this tax under the Act of Assembly, No. 481, approved June 25, 1947, its supplements and amendments). Whenever used in any clause prescribing and imposing a penalty the term “person” as applied to association shall mean the partners or members thereof and as applied to corporation the officers thereof.

RECEIVER OF TAXES — such person as the Council of the Borough of Hollidaysburg by resolution may appoint to collect and receive the taxes imposed by this Part.

RESIDENTS — an individual, co-partnership, association, or other entity domiciled in the Borough of Hollidaysburg.

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TAXPAYER — a person, whether an individual, co-partnership, association, or any other entity, required hereunder to file a return of earnings or net profits, or to pay a tax thereon.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

(Ord. 445, 11/4/1966, §1)

§102. Imposition of Tax.

An annual tax for general revenue purposes of 5/10% is hereby imposed on (a) all salaries, wages, commissions and other compensation earned on and after January 1, 1967 to December 31, 1967, inclusive, by residents of the Borough of Hollidaysburg and on (b) all salaries, wages, commissions and other compensation earned on and after January 1, 1967, by nonresidents of the Borough of Hollidaysburg and on (c) the net profits earned on and after January 1, 1967, of businesses, professions or other activities conducted by such residents, and on (d) the net profits earned on and after January 1, 1967, of businesses, professions, or other activities conducted in the Borough of Hollidaysburg by nonresidents.

The tax levied under (a) and (b) herein shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to any person who is employed by or renders services to him. The tax levied under (c) and (d) herein shall relate to and be imposed on the net profits of any business, profession or enterprise carried on by any person as owner or proprietor either individually or in association with some other person or persons.

Said tax shall first be levied, collected and paid with respect to the salaries, wages, commissions and other compensations earned from and after January 1, 1967, with respect to the net profits of businesses, professions, or other activities earned during that part of the calendar year of 1967, beginning from and after January 1, 1967, provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year of 1967 the tax shall be applied to that part of the net profits for the fiscal year as shall be earned from and after January 1, 1967.

(Ord. 445, 11/4/1966, §2)

§103. Returns and Payment of Tax.

Each taxpayer whose earnings or profits are subject to the tax imposed by this Part shall, on or before April 15, 1968, and thereafter during the life of this Part, make and file a return with the Receiver of Taxes on a form furnished by or obtainable from him, setting forth the aggregate amount of salary, wages, and other compensation, or net profits earned by him during the preceding year and subject to the said tax, together with such other pertinent information as the Receiver of Taxes may require. Provided,

however, that when the return is made for the fiscal year or other period different from the calendar years, the return shall be made within 75 days from the end of the said fiscal year or other period.

The return shall also show the amount of the tax imposed by this Part on such earnings and profits. The taxpayer making the said return shall, at the time of filing thereof, pay to the Receiver of Taxes, the amount of taxes shown as due thereon. Provided further, however, that where any portion of the tax so due shall have been deducted at the source, and shall have been paid to the Receiver of Taxes by the person making such deduction pursuant to the provisions of §105 of this Part, credit for the amount so paid shall be deducted from the amount to be due and only the balance, if any, shall be due and payable at the time of filing the return.

The Receiver of Taxes is hereby authorized to provide by regulation, subject to the approval of the Borough Solicitor, that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages or commissions of an employee, and paid by him or them to the Receiver of Taxes, shall be accepted as the return required of any employee whose sole income, subject to the tax or taxes under this Part, is such salary, wages or commissions.

(Ord. 445, 11/4/1966, §3)

§104. Collection at Source.

Each employer within the Borough of Hollidaysburg who employs one or more persons on a salary, wage, commission, or other compensation basis shall deduct, monthly or more often than monthly, at the time of the payment thereof, the tax of 5/10% as hereinbefore provided, of salaries, wages, commissions or other compensation due by the said employer to the said employee and shall make a quarterly return on dates specified herein and pay the amount of tax deducted during said quarter to the Receiver of Taxes. The quarterly returns shall be made on or before April 30, 1967, for all taxes deducted during the quarter beginning January 1, 1967, and ending March 31, 1967; on or before July 31, 1967, for the quarter beginning April 1, 1967, and ending June 30, 1967; on or before October 31, 1967, for the quarter beginning July 1, 1967, and ending September 30, 1967; and on or before January 31, 1968 for the quarter beginning October 1, 1967, and ending December 31, 1967.

On or before January 31, 1968, and annually thereafter each employer shall file a return setting forth the names and residence of each employee of said employer during all or any part of the preceding year, the amounts of salaries, wages, commissions or other compensation earned during such preceding year by each of such employees, the amount of taxes deducted and paid to the Receiver of Taxes together with such other pertinent information as the Receiver of Taxes may require. Provided, however, that the failure or omission by any employer, either residing within or outside the Borough, to make such return and or pay such tax, shall not relieve the employee from the payment of such tax and the compliance with such regulations, with respect to making returns and payment thereof, as may be fixed in this Part or established by the Receiver of Taxes.

(Ord. 445, 11/4/1966, §4)

§105. Declarations.

Every taxpayer who anticipates any income which is not subject to the provisions of §104 hereof, shall file a declaration of the estimated tax for the taxable year commencing January 1, 1967, such declaration shall be filed on or before April 15, 1967 and on the like date thereafter during the life of this Part by all such taxpayers. Such declaration shall be filed upon a form furnished by the Receiver of Taxes, which form may simply state that the figures used in making such declaration are the figures used in making the declaration of the estimate for the federal income tax provided that it is understood that such figures may be modified according to the provisions of this Part so that the declaration required by this section shall set forth only income as is taxable under the provisions of this Part.

Such declaration of estimated tax to be paid to the Borough of Hollidaysburg shall be accompanied by a payment of at least 1/4 of the estimated annual tax and at least a similar amount for such year shall be paid on or before June 15, September 15, and December 15 of such year. Provided, however, that such estimate may be amended at the time of the making of any quarterly payment, and further provided that on or before April 15th of the year following that for which such declaration was filed, a final return shall be filed and any balance which may be due the Borough of Hollidaysburg shall be paid therewith. Should it then appear that such taxpayer has paid more than the amount of tax to which the Borough of Hollidaysburg would be entitled under the provisions of this Part, a refund of the amount so overpaid will be made.

(Ord. 445, 11/4/1966, §5)

§106. Duties of the Receiver of Taxes.

It shall be the duty of the Receiver of Taxes to collect and receive the tax imposed by this Part. He shall collect and receive all such taxes and shall furnish a receipt for their payment, shall keep a record showing the amount received by him from each taxpayer under this Part and the date of such receipt; he shall pay over all taxes received by him to the Treasurer of the Borough of Hollidaysburg, Pennsylvania, monthly, and shall submit his record to the auditors of the accounts of the said Borough. He and his deputy or deputies, if any, shall file such bond as may be required with surety or sureties as approved by the Council of the Borough of Hollidaysburg. (Ord. 445, 11/4/1966, §6)

§107. Enforcement, Rules and Regulations; Inquisitorial Powers.

1. The Receiver of Taxes is hereby charged with the enforcement of the provisions of this Part, and is hereby empowered subject to the approval of the Borough Solicitor, to prescribe, adopt, promulgate and enforce rules and regulations relating to

any matter or thing pertaining to the administration and enforcement of the provisions of this Part, including provisions for the re-examination and correction of returns and payments.

2. The Receiver of Taxes or any agent or employee authorized in writing by him is hereby authorized to examine the books, papers and records of any employer or supposed employer, or of any taxpayer or supposed taxpayer in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax imposed by this Part. Every such employer or taxpayer or supposed taxpayer is hereby directed and required to give to the said Receiver of Taxes or his duly authorized agent or employee the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

The Receiver of Taxes is hereby authorized to examine any person under oath concerning any income which was or should have been returned for taxation, and to this end may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whom he believed to have knowledge of such income.

3. Any information gained by the Receiver of Taxes or any other official or agent of the Borough as a result of any returns, investigations, hearings or verifications required or authorized by this Part, shall be confidential, except for official purposes, and except in accordance with proper, judicial order, or as otherwise provided by law, and any person or agent divulging such information shall be subject to a fine or penalty not to exceed \$300; and/or to imprisonment for a period not to exceed 90 days.

(Ord. 445, 114/1966, §7; as amended by Ord. 626, 4/13/1987)

§108. Interest and Penalties.

All taxes imposed by this Part remaining unpaid after they become due shall bear interest in addition to the amount of the unpaid tax at the rate of 6% per year, and the persons upon whom said taxes are imposed shall be further liable to a penalty of 1/2% of the amount of the unpaid tax for each month or fraction of a month for the first six months of nonpayment. (Ord. 445, 11/4/1966, §8)

§109. Collection of Unpaid Taxes.

All taxes imposed by this Part together with all interest and penalties, shall be recoverable by the Borough Solicitor as other debts of like amount are recoverable. (Ord. 445, 11/4/1966, §9)

§110. Violations; Penalties.

Any person who shall fail, neglect or refuse to make any return required by this Part or any employer who shall fail, neglect or refuse to deduct the tax from the employees at the source and pay all the same to the Receiver of Taxes as required by this Part, or any taxpayer who shall fail, neglect or refuse to pay the tax, penalties, and interest imposed by this Part, or any person who shall refuse to permit the Collector of Taxes or any agent or employees appointed by him in writing to examine his books, records, and papers, or who shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid the full disclosure of the amount of earnings or profits to avoid the payment of the whole or any part of the tax, shall be subject to a fine or penalty of \$600 and/or to imprisonment for not more than 30 days for the nonpayment of such fine or penalty and costs.

Such fine or penalty shall be in addition to any other penalty imposed by any other section of this Part.

The failure of any employer or any taxpayer to receive or procure a return form shall not excuse him from making a return.

(Ord. 445, 11/4/1966, §10; as amended by Ord. 640, 4/10/1989, §33)

§111. Applicability.

This Part shall not apply to any person or property as to whom or which it is beyond the legal power of Council to impose the tax or duties herein provided for. (Ord. 445, 11/4/1966, §11)

§112. Construction.

If any sentence, clause or section or part of this Part is for any reason found to be unconstitutional, illegal or invalid such unconstitutionality, illegality, or invalidity, shall not effect or impair any of the remaining provisions, sentences, clauses or sections or parts of this Part. It is hereby declared as the intent of the Council that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, or section or part thereof not been included herein. (Ord. 445, 11/4/1966, §12)

§113. Agreements with Other Municipalities.

The Receiver of Taxes is hereby authorized to enter into agreements with adjoining municipalities having a similar tax affecting residents of this Borough, for the purpose of facilitating the collection of the tax from residents of this Borough. (Ord. 445, 11/4/1966, §13)

Part 2

Realty Transfer Tax

§201. Short Title.

This Part shall be known as the “Realty Transfer Tax Ordinance of Hollidaysburg Borough. (Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§202. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Borough, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place, as authorized by Article XI-D, “Local Real Estate Transfer Tax,” 72 P.S. §8101 et seq. (Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§203. Definitions.

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

BOROUGH — the Borough of Hollidaysburg.

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 of 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 §202.

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

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

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

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

REAL ESTATE –

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

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

- A. derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or

- B. holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

TITLE TO REAL ESTATE –

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

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

VALUE –

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

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- D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§204. Imposition of Tax; Interest.

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.
2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder of deeds whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
3. It is the intent of this Part that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the Borough Council under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be 1/2 of the rate and such 1/2 shall become effective without any action on the part of the Borough Council provided, however, that the Borough and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to 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. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§205. Exempt Parties.

The United States, the Commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this Part. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax. (Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§206. Excluded Transactions.

The tax imposed by §204 shall not be imposed upon:

- A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed or confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided said reconveyance is made within one year from the date of condemnation.
- B. A document which the Borough is prohibited from taxing under the Constitution or statutes of the United States.
- C. A conveyance to the Borough, school district or county pursuant to acquisition by the Borough, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.
- D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- E. A transfer or division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by covenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
- F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.

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- G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- I. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- J. A transfer for no or nominal actual consideration from trustee to successor trustee.
- K. A transfer (i) for no or nominal actual consideration between principal and agent or straw party; or (ii) from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part.

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

- L. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.
- M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.
- N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
- O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if: (i) the grantee shall directly

use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and (ii) the agency or authority has the full ownership interest in the real estate transferred.

- P. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- R. A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, (68A Stat. 3, 26 U.S.C. §501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
- S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
- T. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
- U. A transaction wherein the tax is \$1 or less.
- V. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

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

(Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

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

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

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members, partners, stockholders and shareholders. (Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§208. Acquired Company.

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three years.
2. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.
3. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate 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. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§209. Credits Against Tax.

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

4. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of the tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
5. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed.

(Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§210. Extension of Lease.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established. (Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§211. Proceeds of Judicial Sale.

The tax herein imposed shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made except the state realty transfer tax, and the sheriff, or other officer, conducting said sale, shall pay the tax herein imposed out of the first 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. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§212. Duties of Recorder of Deeds.

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

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sylvania in reporting collections of the Pennsylvania realty transfer tax. The 2% commission shall be paid to the county.

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

(Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§213. Statement of Value.

Every document lodged with or presented to the recorder of deeds for recording, shall set forth therein and as a part of such document the true, full and complete value thereof, 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. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§214. Civil Penalties.

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

(Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§215. Lien.

The tax imposed by this Part shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Borough, which lands, tenements, hereditaments or interest therein,

are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this Part, said lien to begin at the time when the tax under this Part is due and payable, and continue until discharged by payment, or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Blair County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 et seq., its supplements and amendments. (Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§216. Enforcement.

All taxes imposed by this Part together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered. (Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

§217. Regulations.

The Recorder of Deeds of Blair County is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §8101-C et seq. are incorporated into and made a part of this Part. (Ord. 464, 1/2/1968; as revised by Ord. 626, 4/13/1987)

Part 3

Per Capita Tax

§301. Tax Levy.

An annual per capita tax of \$5 be and the same is hereby levied and assessed upon each resident or inhabitant of the Borough of Hollidaysburg which tax shall be for general purposes and in addition to all other taxes levied and assessed by the Borough of Hollidaysburg pursuant to any other laws of the Commonwealth of Pennsylvania; provided however, that commencing January 1, 1975 and annually thereafter, any person whose total income from all sources is less than \$2,000 per annum, shall be exempt from the tax herein provided. (Ord. 508, 1/3/1972, §1; as amended by Ord. 522, 5/13/1974)

§302. Collection of Taxes at the Same Time as Other Taxes.

Said tax shall be collected by the duly elected or appointed Tax Collector of Borough taxes for the Borough of Hollidaysburg in the same manner and at the same time or times as other Borough taxes are collected, as provided by the Local Tax Enabling Act of 1965, as amended. (Ord. 508, 1/3/1972, §2)

§303. Bond for Collection.

The Tax Collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law for other Borough taxes. (Ord. 508, 1/3/1972, §3)

§304. Tax Duplicate.

The entry of said per capita tax in the tax 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. 508, 1/3/1972, §4)

§305. Expenses of Collection.

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, as amended, which compensation shall be the same as fixed from time to time by the Borough of Hollidaysburg for the collection of other Borough taxes. (Ord. 508, 1/3/1972, §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, as amended. (Ord. 508, 1/3/1972, §6)

§307. Persons Eighteen Years and Older to be Assessed.

In case the Tax Collector, or a Deputy Tax Collector, shall at any time find within the Borough of Hollidaysburg any resident or inhabitant above the age of 18 years whose name does not appear upon the tax duplicate, he shall report the name of such person forthwith to the Assessor, who shall thereupon certify same unto the Borough of Hollidaysburg, 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 this per capita tax against such person to the duplicate of the Borough of Hollidaysburg, and proceed to collect same. (Ord. 508, 1/3/1972, §7; as amended by Ord. 516, 12/11/1972)

§308. Collection by Distress.

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, as amended. (Ord. 508, 1/3/1972, §8)

§309. Collection by Employers.

There is hereby conferred upon the Tax Collector the power and authority to demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals, employing persons owing per capita taxes, or if in possession of unpaid commissions or earnings belonging to any person owing per capita taxes upon the presentation of written notice and demand containing the name of the taxable, and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees then owing or that shall within 60 days thereafter become due, or from any unpaid commissions or earnings of any taxable, in its or his possession, or that shall within 60 days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the per capita taxes and costs shown upon the written notice or demand, and to pay the same to the Tax Collector of the Borough of Hollidaysburg within 60 days after such notice shall have been given. The employer shall be entitled to deduct not more than 2% for his expenses for such moneys paid over to the Tax Collector. Upon the failure of such employer to make such deductions 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 Borough of Hollidaysburg. (Ord. 508, 1/3/1972, §9; as amended by Ord. 626, 4/13/1987)

§310. Responsibilities of Tax Collector.

The Tax Collector shall keep a correct amount of all per capita taxes collected by authority of this Part. 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 the Borough of Hollidaysburg by a separate statement at the same time as other taxes are remitted to the Borough of Hollidaysburg. (Ord. 508, 1/3/1972, §10)

§311. Discounts and Penalties.

All taxpayers subject to the payment of the per capita taxes herein levied and assessed shall be entitled to a discount of 2% of the amount of such tax upon making payment of the whole amount thereof within two 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 months after the date of the tax notice shall be charged a penalty of 10%, which penalty shall be added to the taxes by the Tax Collector and be collected by him. (Ord. 508, 1/3/1972, §11); as amended by Ord. 613, 12/10/1984)

§312. Authority for Tax.

It is the intent of this Part and there is hereby conferred upon the Tax Collector all the powers, together with all the duties and obligations to the same extent and as fully provided for in the Local Tax Enabling Act of 1965, as amended. (Ord. 508, 1/3/1972, §12)

Part 4

Emergency and Municipal Services Tax

§401. Definitions.

The following words and phrases, when used in this Part 4, shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning.

BOROUGH OF HOLLIDAYSBURG — the area within the corporate limits of the Borough of Hollidaysburg.

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

FISCAL YEAR — the twelve-month period beginning January 1 of each year.

HE, HIS or HIM — shall mean and indicate the singular and plural number as well as male, female and neuter gender.

INDIVIDUAL — any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Borough of Hollidaysburg.

MANAGER — the individual under whose direction this tax shall be enforced.

OCCUPATION — any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the Borough of Hollidaysburg for which compensation is charged or received whether by means of salary, wages, commissions or fees for services rendered.

RECEIVER OF TAXES — such person as the Council of the Borough of Hollidaysburg by resolution may appoint to collect and receive the taxes imposed by this Part.

TAX — the Municipal and Emergency Services Tax in the amount of \$30 levied by this Part.

(Ord. 465, 1/2/1968, §1; as amended by Ord. 809, 2/17/2005)

§402. Levy and Exemption.

The Borough of Hollidaysburg hereby levies and imposes on each occupation engaged in by individuals within its corporate limits, for the fiscal year beginning January 1, 2005,

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and for each year thereafter, an Emergency and Municipal Services Tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough of Hollidaysburg. (Ord. 465, 1/2/1968; as amended by Ord. 525, 8/12/1974; by Ord. 626, 4/13/1987; and by Ord. 809, 2/17/2005, §1)

§403. Amount of Tax.

Beginning with the first day of January 2005, each occupation, as hereinbefore defined, engaged in within the Borough of Hollidaysburg, shall be subject to an Emergency and Municipal Services Tax in the amount of \$30 per annum, said tax to be paid by the individual so engaged. (Ord. 465, 1/2/1968, §3; as amended by Ord. 809, 2/17/2005, §2)

§404. Duty of Employer.

Each employer within the Borough of Hollidaysburg, as well as those employers situated outside the Borough of Hollidaysburg but who engage in business within the Borough of Hollidaysburg, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Borough of Hollidaysburg, the said tax of \$30 per annum and making a return and payment thereof to the Receiver of Taxes. Further, each employer is hereby authorized to deduct this tax from each employee in his employ, whether said employee is paid by salary, wages or commission and whether or not part or all such services are performed within the Borough of Hollidaysburg. (Ord. 465, 1/2/1968, §4; as amended by Ord. 809, 2/17/2005, §3)

§405. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Borough of Hollidaysburg. Each employer in filing this return and making payment of the tax withheld from his employees shall be entitled to retain a commission calculated at the rate of 2% of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to said employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him. (Ord. 465, 1/2/1968, §5)

§406. Dates for Determining Tax Liability and Payment.

Each employer shall use his employment records from the first day of January to the 15th of May of each year, for determining the number of employees from whom said tax shall be deducted and paid over to the Receiver of Taxes on or before June 15 of each year. Supplemental reports shall be made by each employer on August 15 and October 15 of each year of new employees as reflected on his employment records from May 15 to

August 15; and from August 15 to October 15 of each year. Payments on these supplemental reports shall be made on September 15 and November 15 respectively of each year. (Ord. 465, 1/2/1968, §6)

§407. Individuals Engaged in More Than One Occupation.

Each individual who shall have more than one occupation within the Borough of Hollidaysburg shall be subject to the payment of this tax on his principal occupation and his principal employer shall deduct this tax and deliver to him evidence of deductions on a form to be furnished to the employer by the Borough of Hollidaysburg, which form shall be evidence of deduction having been made, and when presented to any other employer shall be authority for such employer to not deduct this tax from the employees wages, but to include such employee on his return by setting forth his name, address, and the name and account number of the employer who deducted this tax. (Ord. 465, 1/2/1968, §7)

§408. Self-Employed Individuals.

All self-employed individuals who perform services of any type or kind, engage in any occupation or profession within the Borough of Hollidaysburg, shall be required to comply with this Part and pay the tax to the Receiver of Taxes on June 15 of each year, or as soon thereafter as he engages in an occupation. (Ord. 465, 1/2/1968, §8)

§409. Employers and Self-Employed Individuals Residing Beyond the Corporate Limits of the Borough of Hollidaysburg.

All employers and self-employed individuals residing or having their place of business outside of the Borough of Hollidaysburg but who perform services of any type or kind, or engage in any occupation or profession within the Borough of Hollidaysburg do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Part with the same force and effect as though they were residents of the Borough of Hollidaysburg. Further, any individual engaged in an occupation within the Borough of Hollidaysburg and an employee of a nonresident employer may, for the purpose of this Part, be considered a self-employed person, and in the event this tax is not paid, the Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided. (Ord. 465, 1/2/1968, §9)

§410. Administration of Tax.

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

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2. The Manager is hereby charged with the administration and enforcement of this Part and is hereby charged and empowered to prescribe, adopt, promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination and enforcement of this Part, including provisions for the examination of the 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 Manager shall have the right to appeal to the Court of Common Pleas of Blair County as in other cases provided.
3. The Manager 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 Manager the means, facilities and opportunity for such examination.

(Ord. 465, 1/2/1968, §10)

§411. 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 Receiver of Taxes may sue for the recovery of any such tax due or unpaid under this Part, together with interest and penalty.
2. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of said tax shall be calculated beginning with the due date of said tax and a penalty of 10% shall be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection. [Ord. 613]

(Ord. 465, 1/2/1968, §11; as amended by Ord. 613, 12/10/1984, §3)

§412. Fine and Penalty.

Whoever makes any false or untrue statement on any return required by this Part, or who refuses inspection of his books, records or accounts in his custody and control, setting forth the number of employees subject to this tax who are in his employment, or, whoever fails or refuses to file any return required by this Part, shall upon conviction before a district magistrate, be sentenced to pay a fine of not more than \$600 for each offense and/or imprisonment in the Blair County Prison for a period not exceeding 30 days for each offense. It is further provided that the action to enforce the fine and penalty therein provided may be instituted against any person in charge of the business of any employer who has filed or refuses to file a return required by this Part. (Ord. 465, 1/2/1968, §12; as amended by Ord. 626, 4/13/1987; and by Ord. 640, 4/10/1989, §34)

§413. Saving Clause.

1. Nothing contained in this Part shall be construed to empower the Borough of Hollidaysburg to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Borough of Hollidaysburg 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. 465, 1/2/1968, §14)

Part 5

Real Estate Taxes

§501. Discounts and Penalties.

Beginning with the tax year beginning on the first Monday of January, 1985 and ending on the first Monday of January, 1986, and for each tax year thereafter, all taxpayers subject to the payment of real estate taxes imposed by the Council of the Borough of Hollidaysburg shall be entitled to a discount of 2% of the amount of such tax upon making payment of the whole amount thereof within two 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 months after the date of the tax notice shall be charged a penalty of 10%, which penalty shall be added to the taxes by the Tax Collector and be collected by him. (Ord. 613, 12/10/1984, §1)

Part 6

Local Taxpayers Bill of Rights

A. Compliance and Adoption.

§601. Compliance and Adoption.

1. The Borough Council does hereby resolve as follows:
 - A. The Borough is a local taxing authority as defined in Act 1998-50.
 - B. The Borough hereby adopts the following forms and procedures as required by Act 1998-50:
 - (1) Disclosure statement.
 - (2) Taxpayers bill of rights.
 - (3) Information request time extension – procedure notice.
 - (4) Internal Administrative official process for tax appeals.
 - (5) Regulations specifying tax petition forms and rules, and practice and procedure rules; and adopts a local taxpayer bill of rights policy.
2. The forms and procedures above set forth are attached hereto and made a part hereof.

(Res. 99-37, 7/1/1999, §§1-3)

B. Attachments.

