

## CHAPTER 23

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**Part 1**

**Earned Income and Net Profits**

**§1. Imposition of Tax <sup>1</sup>**

- (a) General Purpose Residential Tax: The Taxing authority hereby imposes a Tax for general revenue purposes at the rate of 1 % on earned income and net profits of individual residents of the Taxing Authority.
- (b) Ongoing Tax: The Tax shall continue at the above rates during the current Tax each Tax Year thereafter, without annual reenactment, until this Enactment is repealed or the rate is changed.
- (c) Combined Tax Rate Applicable to Residents: Currently, the total rate applicable to residents of the Taxing Authority, including the tax imposed by the school district and municipality in which the individual resides, is 1 %.
- (d) Municipal Tax Rate Applicable to Nonresidents: Currently, the total rate applicable to non-residents working within the Taxing Authority based on the municipal non-resident tax rate is 1 %.
- (e) Local Tax Enabling: Act Applicable: The Tax is imposed under authority of the Local Tax Enabling Act, and all provisions thereof that relate to a tax on earned income or net profits are incorporated into this Enactment. Any future amendments to the Local Tax Enabling Act that are required to be applied to a tax on earned income or net profits will automatically become part of this Enactment upon the effective date of such amendment, without the need for formal amendment of this Enactment, to the maximum extent allowed by 1 Pa.C.S.A. ~ 1937.
- (f) Applicable Laws, Regulations, Policies, and Procedures: The Tax shall be collected and administered in accordance with: (1) all applicable laws and regulations; and (2) policies and procedures adopted by the TCC or by the Collector. This includes any regulations, policies, and procedures adopted in the future to the maximum extent allowed by 1 Pa.C.S.A. § 1937.

(Ord. 1966-2A, 2/1/1966, as reenacted by Ord. 111, 7/8/1975, §1; as reenacted by Ord. 292, 12/11/2010, §2)

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### §2. Incorporation of Statute; Options

Section 13 of the Local Tax Enabling Act of 1965 P.L. 1257 is hereby incorporated by reference into and made part of this ordinance,<sup>3</sup> to the same extent as if the full text of the said section had been set out verbatim in this ordinance, except that:

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

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<sup>1</sup> This heading and that of Sections 2 and 3 of this chapter are part of Ordinance 111 and 292 as enacted.

<sup>2</sup> The preamble to Ordinance 111 cited the legal authority for enactment of the ordinance, and the reenactment of Ordinance 1966-2A, and the reenactment of Ord. 292, the purpose of which was to bring into better conformity with the Local Tax Enabling Act the provisions as originally enacted, at this time of the codification of the ordinances of the Borough of Bloomfield.

<sup>3</sup> Sections 1 to 3 of this chapter.

(Ord. 1966-2A, 2/1/1966, as reenacted by Ord. 111, 7/8/1975, §2)

- (c) **No Exemption from Tax:** Although credits and deductions against Tax are permitted under certain circumstances as provided in applicable law and regulations, no individuals are exempt from Tax based on age, income, or other factors.
- (d) **Individual Tax Returns and Payments:** Every individual receiving earned income or earning net profits in any Tax Year shall file Tax Returns and pay Tax in accordance with the Local Tax Enabling Act.
- (e) **Employer Withholding, Remittance, and Tax Returns:** Every employer shall register, withhold, and remit Tax, and file Tax Returns in accordance with the Local Tax Enabling Act.
- (f) **Tax Collector:** The Tax will be collected from individuals and employers by the Collector.
- (g) **Interest, Penalties, Costs, and Fines:** Individuals and employers are subject to interest, penalties, costs, and fines in accordance with the Local Tax Enabling Act, including costs imposed by the Collector in accordance with authorization by the TCC having jurisdiction.

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- (h) **Severability:** The provisions of this Enactment are severable and if any of its provisions are ruled by a court invalid or unconstitutional, such decision shall not affect or impair any of the remaining provisions of this Enactment. It is declared to be the intention of the Governing Body that this Enactment would have been adopted if such invalid or unconstitutional provision had not been included.
- (i) **Purpose/Repeal:** The primary purpose of this Enactment is to confirm the earned income and net profits tax currently imposed to the Local Tax Enabling Act, as amended and restated by Act 32 of 2008, and to do so within the time frame required by Act 32. Any prior enactment or part of any prior enactment conflicting with the provisions of this Enactment is rescinded insofar as the conflict exists. To the extent the same as any enactment in force immediately prior to adoption of this enactment, the provisions of this Enactment are intended as a continuation of such prior enactment and not as a new enactment. If this Enactment is declared invalid, any prior enactment levying a similar tax shall remain in full force and effect and shall not be affected in any manner by adoption of this Enactment. The provisions of this enactment shall not affect any act done or liability incurred, nor shall such provision affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish offense under the authority of any enactment in force prior to adoption of this enactment. Subject to the foregoing provisions of this Section, this Enactment shall supersede and repeal on the Effective Date any enactment levying a tax on earned income or net profits in force immediately prior to the Effective Date.

(Ord. 292, 12/11/2010, §§3 to 9)

### **§3. Income Tax Officer**

The Borough Council may from time to time appoint and designate a person to serve as Income Tax Officer, and the bond of the Income Tax Officer shall be filed with the Borough Solicitor. (Ord. 1966-2A, 2/1/1966, as reenacted by Ord. 111, 7/8/1975, §3)

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## §4. Definitions

All terms defined in the Local Tax Enabling Act, 53 P.S. § 6924.101 et seq., shall have the meanings set forth therein. The following terms shall have the meanings set forth herein:

- a. Collector: The person or entity appointed as tax officer pursuant to the Local Tax Enabling Act to collect the Tax.
- b. Effective Date: January 1, 2011
- c. Enactment: This Resolution
- d. Governing Body: The Council of the Borough of Bloomfield
- e. Local Tax Enabling Act: The Local Tax Enabling Act, 53 P.S. § 6924.1 et seq., and as amended in the future.
- f. TCD: Any tax collection district to which the Taxing Authority or any part of the Taxing Authority is assigned under the Local Tax Enabling Act.
- g. TCC: The tax collection committee established to govern and oversee the collection of earned income tax within the TCD under the Local Tax Enabling Act.
- h. Tax: The tax imposed by this Enactment.
- i. Tax Return: A form prescribed by the collector for reporting the amount of Tax or other amount owed or required to be withheld, remitted, or reported under this Enactment or the Local Tax Enabling Act.
- j. Tax Year: The period from January 1 to December 31.

(Ord 292, 12/11/2010, §1)

## Part 2

### Per Capita

#### **§11. Imposition of Tax.**

A per capita tax of \$5, for general revenue purposes, is hereby levied and assessed for each calendar year, upon every resident or inhabitant of the Borough of Bloomfield during any part of the year, over the age of 18, which tax shall be in addition to all other taxes levied and assessed by the said Borough.<sup>4</sup> (Ord. 1966-1, 1/4/1966, §1, as amended by Ord. 110, 7/8/1975, §1)

#### **§12. Collection of Tax.**

The per capita tax levied in Section 1 of this ordinance<sup>5</sup> shall be collected by the duly elected and authorized Tax Collector for the Borough of Bloomfield, in accordance with the provisions of the Local Tax Collection Law of 1945, which tax shall be subject to the same discounts, penalties and interest as are taxes which are assessed and levied upon real estate. (Ord. 1966-1, 1/4/1966, §2, as amended by Ord. 110, 7/8/1975, §2)

#### **§13. Recovery of Tax, Penalties and Interest.**

All taxes, together with all penalties and interest, imposed by this ordinance<sup>6</sup> shall be recoverable in the same manner as other debts of like amount are recoverable, or as other taxes are recoverable by said Borough. (Ord. 1966-1, 1/4/1966, §3)

#### **§14. Penalty for Violation.**

Any person who shall violate any provision of this ordinance<sup>7</sup> shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300.00 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. (Ord. 1966-1, 1/4/1966, §7, as added by Ord. 110, 7/8/1975, §3)

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<sup>4</sup> Section 4 of Ord. 1966-1 stated that the purpose of the tax was to provide additional revenue, and to relieve some of the burden on real estate; Section 5 stated that the estimated revenue to be derived for 1966 was \$2500; Section 6 provided that the ordinance be effective February 15, 1966.

<sup>5</sup> Section 11 of this chapter.

<sup>6</sup> Sections 11 to 14 of this chapter; see especially Section 12.

<sup>7</sup> Sections 11 to 14 of this chapter.

**Part 3**

**Realty Transfer Tax**

**§21. Short Title.**

This Part shall be known as the “ Realty Transfer Tax Ordinance of the Borough of Bloomfield.” (Ord. 215, 12/1/1998, §1)

**§22. 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 of Bloomfield 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, 53 P.S. §6901 et seq. (Ord. 215, 12/1/1998, §2)

**§23. 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.

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 or 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 conform a public utility easement. Document shall also include a declaration of acquisition required to be presented for recording under Section 28 of this Part.

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, 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 operation.
- E. Manufacturing or processing operations of any kind.

GOVERNING BODY – the Borough Council of the Borough of Bloomfield

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 the imposing a fine or imprisonment, or both, the terms "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 the Borough of Bloomfield, 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 interest by custom, usage or law pass with the 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 corporation housing cooperation, 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.

- 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 REAL ESTATE –

- A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years including, without limitation, an estate in fee simple, life estate or perpetual leasehold.
- B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold including, without limitation, a leasehold interest or possessory interest and/or 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 ease 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 actual consideration therefore, 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 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 subsection (A) or (B), the actual monetary worth of such interest.

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- D. The actual consideration for or actual monetary worth of any executory agreement for the consideration of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before or effective with the transfer.

(Ord. 215, 12/1/1998, §3)

### **§24. Imposition of Tax; Interest.**

1. Every person who makes, executes, delivers, accepts or present 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 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 of Bloomfield under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be  $\frac{1}{2}$  of the rate and such  $\frac{1}{2}$  rate shall become effective without any action on the part of the Borough of Bloomfield; provided, however, that the Borough of Bloomfield 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  $\frac{1}{2}$  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. 215, 12/1/1998, §4)

### **§25. 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 Section.

The exemption of such governmental bodies shall not, however, relieve any other party of a transaction from liability for the tax. (Ord. 215, 12/1/1998, §5)

**§26. Excluded Transactions.**

1. The tax by Section 24 shall not be imposed upon:
  - A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivision, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments, provided said conveyance is made within one year from the date of condemnation.
  - B. A document which the Borough of Bloomfield is prohibited from taxing under the Constitution or statutes of the United States.
  - C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff'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 exceed 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 co-tenants; however, if any other 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 or wife prior to the granting of the final decree of divorce, between parent and child or the spouse of such child, between brother or sister or the spouse of such brother or sister and brother or sister or the spouse of such 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.
  - G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a 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 beneficiaries,

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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 Section. Where the documents 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 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 of 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 the real estate for the primary purpose of manufacturing, fabrication, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture, and (ii) the agency or authority has 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 the 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 conservancy which possesses tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. §501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
- 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 stock thereof.
- T. A transfer between members of the same family of an ownership interest in 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.

(Ord. 215, 12/1/1998, §26)

**§27. Documents Relating to Associations or Corporations and Members, Partners, Stockholders, or Shareholders thereof.**

Except as otherwise provided in Section 26 hereof, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders thereof are fully taxable. For the purpose of this Section, corporations and associations are entities separate from their members, partners, stockholders or shareholders. (Ord. 215, 12/1/1998, §7)

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### **§28. 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 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 deeds 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 property in such county. A copy of the Pennsylvania Realty Transfer Declaration of Acquisition may be submitted for this purpose.

(Ord. 215, 12/1/1998, §8)

### **§29. 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 a 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 upon the transfer.
2. Where there is a transfer by a builder of a 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 tax due upon the transfer.
3. Where that is a transfer of real estate which is leased by the grantor, a credit for the amount of tax due 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 of tax due, no refund or carryover shall be allowed.

(Ord. 215, 12/1/1998, §9)

### **§30. Extension of Lease.**

In determining the term of a lease, it shall be presented 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. 215, 12/1/1998, §10)

### **§31. 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 Borough of Bloomfield 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 of Bloomfield.
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 deed unless it is accompanied by a statement of value what taxes are due each municipality.
3. On or before the 10<sup>th</sup> of each month, the recorder shall pay over to the Borough of Bloomfield all local realty transfer taxes collected, less 2% 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% 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 record the deed of record and the additional realty transfer tax form only when both the State and local amounts an a rerecording fee has been tendered.

(Ord. 215, 12/1/1998, §11)

### **§32. Statement of Value.**

Every document lodged with or presented to the recorder 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 reasonable person connected with the transaction showing such connection and setting forth the true,

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full and complete value thereof or the reason, if any, why such document is not subject to tax under this Section. 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 transfer which are exempt from taxation based on family relationship. Other documents presented for affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a reasonable 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. 215, 12/1/1998, §12)

### **§33. Civil Penalties.**

1. If any part of any underpayment of tax is imposed by this Part is due to fraud, there shall be added to the tax amount equal to 50% of the underpayment.
2. In the case of failure to record a declaration required under this Section on the date prescribed therefore, unless it is shown that such a 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. 215/ 12/1/1998, §13)

### **§34. 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 of Bloomfield, which lands, tenements, hereditaments or interest therein, are described in or conveyed by pr 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 tax claim in the Court of Common Pleas of the 41<sup>st</sup> Judicial District of Pennsylvania, Perry County Branch, 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.215, 12/1/1998, §14)

**§35. Enforcement.**

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. 215, 12/1/1998, §15)

**§36. Regulations.**

The Secretary of the Borough of Bloomfield 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 promulgated by the Pennsylvania Department of Revenue under 72 P.S. §8101-C et seq., are incorporated into and made part of this Part.

(Ord. 215, 12/1/1998, §16)

**Part 4**

**Local Services Tax**

**§401. Short Title.**

This Part shall be known as, and may be cited as the “Borough of Bloomfield Local Services Tax Ordinance.”

(Ord. 263, 12/4/2007, §1)

**§402. Definitions.**

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

**BOROUGH OF BLOOMFIELD** – the area within the corporate limits of the Borough of Bloomfield, Perry County, Pennsylvania.

**COLLECTOR** – the person, public employee or private agency designated by the Borough of Bloomfield to collect, administer, and enforce 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 Section 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, 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 Borough of Bloomfield.

**NET PROFITS** – the net income from the operation of a business, profession, or other activity, as this term is defined in Section 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).

## TAXATION

**OCCUPATION** – Any trade, profession, business or undertaking of any type, kind of character, including services, domestic or other, carried on or performed within the corporate limits of the Borough of Bloomfield for which compensation is charge or received, whether by means of salary, wages, commission or fees for services rendered.

**PRINCIPAL EMPLOYER** – an employer in a concurrent employment situation who pays the largest amount of salary, wage, commission or other compensation to an employee.

**TAX** – the local services tax in the amount of \$52.00 levied by this part.

**TAX YEAR** – the period from January 1 until December 31 in any year, a calendar year.

(Ord. 263, 12/4/2007, §2; as amended by Ord. 270, 12/2/2008, §1)

### **§403. Levy of Tax.**

1. For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2010, upon the privilege of engaging in an occupation with a primary place of employment within the Borough of Bloomfield 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 \$52.00, as assessed on a pro rata basis, in accordance with the provisions of this Part. The tax shall be no more than \$52.00 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.
2. Funds from this tax may only be used for the following purposes:
  - A. Not less than 25% of the funds shall be used for 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.A. Ch.85, Subch F.

(Ord. 263, 12/4/2007, §3; as amended by Ord. 270, 12/2/2008, §1; as amended by Ord. 285, 12/1/2009, §2; and as amended by Ord. 290, 12/7/2010, §2).

### **§404. Exemption and Refunds.**

1. Exemption; Any person whose total earned income and net profits from all sources within the Borough of Bloomfield is less than \$12,000 for any

calendar year in which the tax 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 one-hundred-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 subsection, "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 National Guard, or the Pennsylvania Air National Guard.

2. Procedure to Claim Exemptions.

- A. Any person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the Borough of Bloomfield and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of less than \$12,000 in the calendar year for which the exemption certificate is filed. In the event the Borough utilizes a Collector, it shall provide a copy of the exemption certificate to that Collector. 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 Borough 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 Borough, or exempt as required by Subsection 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 provided by the Collector.
- 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 Borough that the person has received earned income and net profits from all sources within the Borough equal to or in excess of \$12,000 in that calendar year, or that 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 Borough 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 Subsection C.

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- 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 Subsection 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 Subsection B, a lump sum equal to the amount of the tax that was not withheld from the person due to the exemption claimed by the person under this Subsection, plus the payment amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining 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 Subsection is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due.
- D. Except as provided in Subsection 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 a local services tax.

### 3. Refunds.

The Collector, as the agent of the Borough of Bloomfield, is hereby authorized to make refunds for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with the provisions of the general municipal law relating to refunds of overpayments and interest payments.<sup>8</sup> 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 \$1.00.

(Ord. 263, 12/4/2007, §4)

### **§405. Duty of Employers to Collect.**

1. Each employer within the Borough of Bloomfield, as well as those outside the Borough of Bloomfield, but who engage in business within the Borough, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the Borough and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax from 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 Borough unless the employee is engaging in concurrent employment with an employer located in higher priority political subdivisions, or has an exemption certificate on file with the employer and Collector.
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.

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<sup>8</sup> Note: With respect to refunds, see 53 P.S. §8425; with respect to interest, see P.S. §8426.

The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the combined 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 tax collected each payroll period to the nearest one-hundredths 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 the purposes of this Subsection, "combined rate" shall mean the aggregate annual rate of the tax levied by the West Perry School District and the Borough of Bloomfield.

3. No person shall be subject to the payment of the local services tax in 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 two weeks of its occurrence.
5. The tax shall be no more than \$25 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The Borough of Bloomfield shall provide a taxpayer a receipt of payment upon request by the taxpayer.
6. No employer shall be held liable for failure to withhold the tax of for the payment of the withheld tax money to the Borough of Bloomfield 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 §404, Subsection 2, of this Part and remits the amount so withheld in accordance with this Part.

(Ord. 263, 12/4/2007, §5)

#### **§406. Returns.**

1. 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. Each employer shall be entitled to retain a commission calculated at the rate of 2% of the gross tax due and payable, provided that such a tax is collected and paid over by the employer on or before the dates hereinafter set forth. 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 commission paid by him to an employee, except as provided

## TAXATION

hereafter, the employer shall be responsible for the payment of the tax in full as though the tax has been originally levied against the employer.

2. Each employer shall be required to remit the local services tax to the Collector 30 days after the end of each quarter of a calendar year.
3. If an employer has employees for whom he is not withholding the tax pursuant to Subsection 1 of §405, the employer shall include the employee on his return by setting forth his name, address, social security number, and the name and account number of the employer(s) who withheld the tax.

(Ord. 263, 12/4/2007, §6)

### **§407. 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 30<sup>th</sup> day following the end of each calendar quarter of each such tax year.

(Ord. 263, 12/4/2007, §7)

### **§408. 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 Borough of Bloomfield 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 30<sup>th</sup> day following the end of each quarter.

(Ord. 263, 12/4/2007, §8)

### **§409. 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, if the political subdivision where the principal employer or principal occupation is located does not collect the tax, 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, to the extent the tax is not levied by the first and second priority political subdivisions.

2. In case of a dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment of \$25 constitutes prima facia certification of payment to all other political subdivisions. Any tax paid, withheld, or prospectively to be withheld, that is not to a higher priority taxing jurisdiction should not be included in determining the \$25. An employee should apply for refund for such amounts paid to existing jurisdictions of lesser priority.

(Ord. 263, 12/4/2007, §9)

#### **§410. Nonresidents Subject to Tax.**

All employers and self-employed individuals residing or having their places of business outside the Borough of Bloomfield but who perform any services of any type or kind or engage in any occupation or profession within the Borough of Bloomfield 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 Bloomfield. Further, any individual engaged in an occupation within the Borough 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 Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

(Ord. 263, 12/4/2007, §10)

#### **§411. Administration of Tax.**

- 1. 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 or 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, as agent of the Borough of Bloomfield, charged and empowered to prescribe, 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.

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Any person aggrieved by any decision of the Collector shall have the right of appeal consistent with the Local Taxpayers Bill of Rights under Act 50, 1998.

3. The Collector is hereby authorized to examine the books and payroll 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. 263, 12/4/2007, §11)

### **§412. Suits for Collection.**

1. In the event that the 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 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 such tax shall be calculated beginning with the due date of the tax and a penalty of 5% 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 for shall, in addition, be responsible and liable for the costs of collection.
3. The Collector may impose on, and collect from, delinquent taxpayers and retain all reasonable costs of collection incurred by Collector in its enforcement and collection of delinquent tax payments provided such collection and enforcement occurs within five years after the last day of the year in which the tax was first due and provided the Collector reports the total of such cost collections to the Borough of Bloomfield at least annually.

(Ord. 263, 12/4/2007, §12)

### **§413. Violations and Penalties.**

Any individual or employer who shall fail, neglect, or refuse to pay the tax after it becomes due and payable, or otherwise violates any part of this Part shall, upon conviction before nay Magisterial District Judge, be subject to a fine of not more than \$300.00 for each offense and costs of court proceedings.

(Ord. 263, 12/4/2007, §13)

**§414. Interpretation.**

1. Nothing enacted in this Part shall be construed to empower the Borough of Bloomfield to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Borough under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
2. The provisions of this Part are severable and if any of its provisions shall be held invalid or unconstitutional, the decision of the court shall not affect or invalidate any of the remaining provisions. It is hereby declared to be the legislative intent that this Part would have been adopted if such illegal, invalid, or unconstitutional provision had not been included herein.

(Ord. 263, 12/4/2007, §14)

**§415. Saving Clause.**

Except as set forth hereafter, all ordinances or parts of ordinances inconsistent herewith are hereby repealed. Nothing herein shall be construed to repeal the imposition and collection of an emergency and municipal services tax for calendar year 2006 and 2007, as the same existed prior to this Part.

(Ord. 263, 12/4/2007, §15)

**§416. Effective Date.**

This Part shall be effective on January 1, 2008, and all calendar years thereafter, unless repealed or modified by ordinance of the Borough of Bloomfield Council.

(Ord. 263, 12/4/2007, §16)