

Chapter 24

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

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

(*Ord. 5, 7/3/1970, §1; as amended by Ord. 41, 11/10/2011*)

§24-102. Definitions.

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

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

Business—includes any enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, copartnership, or association.

Collector or Earned Income Tax Collector—the person appointed by the Board of Township Supervisors to collect the taxes levied by this Part and to administer the provisions thereof.

Compensation earned or compensation paid or earnings—all salaries, wages, commissions, bonuses, incentive payments, and other forms of compensation or remuneration, in cash or in property, received by an individual and paid, directly or through an agent, by an employer for services rendered.

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

Earned income—compensation as determined under §303 of the Act of March 4, 1971, P.L. 6, No. 2, known as the “Tax Reform Code of 1971,” and regulations in 61 Pa.Code, Part. I, Subpart. B, Article V (relating to personal income tax), not including, however, wages or compensation paid to individuals on active military service. Employee business expenses are allowable deductions as determined under Article III of the Tax Reform Code of 1971. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income. [*Ord. 41*]

Employer—any individual, copartnership, 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 income from the operation of a business, profession, or other activity, except corporations, determined under §303 of the Act of March 4, 1971, P.L. 6, No. 2, known as the “Tax Reform Code of 1971,” and regulations in 61 Pa.Code, Part I, Subpart B, Article V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

- (1) Any interest earnings generated from any monetary accounts or investment instruments of the farming business.
- (2) Any gain on the sale of farm machinery.
- (3) Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes.
- (4) Any gain on the sale of other capital assets of the farm.

[*Ord. 41*]

Nonresident—an individual, fiduciary, co-partnership, or association domiciled outside the Township.

Person—includes the natural person, co-partnership, association, firm, or fiduciary. Whenever used in any clause prescribing and imposing a penalty, the term “person,” as applied to associations, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.

Resident—an individual, fiduciary, co-partnership, or association domiciled in the Township.

Taxpayer—a person required hereunder to file a return on earnings or net profits or to pay a tax thereon.

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

(*Ord. 5, 7/3/1970, §2; as amended by Ord. 41, 11/10/2011*)

§24-103. Imposition of Tax.

1. A tax for general revenue purposes of ½ percent is hereby imposed on the following:

A. Salaries, wages, commissions, and other compensation earned on and after August 1, 1970, by residents.

B. Salaries, wages, commissions, and other compensation earned on and after August 1, 1970, by nonresidents for work done or services performed or rendered in the Township.

C. Net profits earned on and after August 1, 1970 by businesses conducted by residents.

D. Net profits earned on and after August 1, 1970 by businesses conducted by non-residents in the Township.

2. The taxes levied under paragraphs .1.A and .1.B herein shall relate to and be imposed upon salaries, wages, commissions, and other compensations paid by an employer or on his behalf to any person who is employed or renders services to him. The tax levied under paragraphs .1.C and .1.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.

3. Such taxes shall be levied with respect to the compensation or net profits earned during each calendar year or portion thereof for which the tax is levied; provided that when the fiscal year of business differs from the calendar year, the tax shall be applicable to the net profits of the fiscal year or the prorated portion thereof.

(Ord. 5, 7/3/1970, §3)

§24-104. Taxpayer's Responsibilities.

1. Every taxpayer whose earnings or profits are subject to the tax imposed by this Part shall on or before April 15 of every year, beginning in the year 1971, make and file a return with the Collector on a form furnished by or obtainable from the Collector setting forth the aggregate amount of salary, wages, and other compensation, or net profits earned by him during the preceding year or portion thereof subject to the said tax, together with such other pertinent information as the Collector may require.

2. 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 Collector the amount of taxes shown 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 Collector by the person making such deduction pursuant to the provisions of §24-105 of this Part, or where any portion of said tax shall have been paid by such taxpayer pursuant to the provisions of §24-106 of this Part, credit for the amount so paid shall be deducted from the tax, and only the balance, if any, shall be due and payable at the time of filing said return; and, provided further, that any payment by a nonresident of a like tax on the same subjects on which the tax provided by this Part is levied to a political subdivision in which said nonresident resides 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 said return: and provided further that in any case when the sole income of any person subject to tax under this Part is in the form of compensation paid by an employer and when the entire tax due from such employee has been deducted by his employer and paid to the Collector pursuant to the provisions of §24-105, such employee shall not be required to file a return thereof.

(Ord. 5, 7/3/1970, §4)

§24-105. Employer's Responsibilities.

Every employer who employs one or more persons on a salary, wage, commission, or other compensation basis whose earnings are subject to the tax imposed by this Part shall deduct at the time of the payment thereof the tax of $\frac{1}{2}$ percent of salaries, wages, commissions, or other compensations due by the said employer to the said employee, and shall have a quarterly return for each quarter of every calendar year on or before the fifteenth day of the month following the termination of the quarter for which the return is made, and pay to the Collector the amount of tax so deducted; provided, however, in the case of nonresident employees the amount of a like tax on the same subjects taxed by this Part paid or required to be paid by the employer of said nonresident to a political subdivision in which said nonresident resides shall be deducted from the tax levied hereunder only the balance, if any, shall be paid to the Collector, said return shall be on a form or forms furnished by or obtainable from the Collector and shall set forth the names and residence of each employee of said employer during all or any part of the preceding quarter, the amounts of salaries, wages, commissions, or other compensation earned during such preceding quarter by each of such employees, together with such other pertinent information as the Collector may require; provided, however, that the failure or omission by any employer to make such return and 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 established in this Part.

(*Ord. 5, 7/3/1970, §5*)

§24-106. Estimating Taxpayer's Tax.

1. Every taxpayer who anticipates any income subject to the tax levied by this Part, which is not subject to the provisions of §24-105 thereof, shall file a declaration of the estimated tax for the year beginning August 1, 1970, and ending December 31, 1970. Such declaration shall be filed on or before December 15, 1970, and a similar declaration for each calendar year thereafter shall be filed on or before April 15 of each year during the life of this Part and renewals thereof by all such taxpayers, such declaration shall be filed upon a form furnished by the Collector which may simply state that the figures used in making such declaration are the figures used in making the declaration of the estimate for the taxpayers' Federal income tax; provided, that such figures may be modified according to the provisions of this Part so as to set forth only such income as is taxable under the provisions of this Part; and, provided further, that in the case of a nonresident, credit may be taken in such declaration for any like tax levied and assessed against him by the political subdivisions which he resides on the same class of subject taxable by this Part.

2. Such declaration of estimated tax filed on or before December 15, 1970, shall be accompanied by payment of the entire estimated tax for the period from August 1, 1970, to December 15, 1970, and thereafter shall be accompanied by payment of at least one-fourth of the estimated annual tax for each succeeding calendar year, with such payments to be made on or before April 15, June 15, September 15, and December 15 of each 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 15 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 Township shall be paid therewith. Should it then appear that such taxpayer has paid more than the amount of tax to which the Township is entitled under the provisions of this Part, a refund of the amount overpaid shall be made.

(*Ord. 5, 7/3/1970, §6*)

§24-107. New Residents of the Township.

Each taxpayer who moves into the Township after the effective date of this Part shall file with the Collector within 30 days thereafter, on a form prescribed by the Collector, a statement showing his residence, name of employer, and place of employment, and whether the tax to become due under this Part will be withheld by his employer and paid to the Collector as hereinbefore imposed, if such tax shall not be withheld and paid, said taxpayer shall within 60 days after becoming a resident of the Township file his declaration of estimated tax for the remainder of the calendar year covered by the Part, as set forth in §24-106 hereof.

(*Ord. 5, 7/3/1970, §7*)

§24-108. Designation of Earned Income Tax Collector.

The Board of Supervisors of the Township shall designate an Earned Income Tax

Collector by resolution, and the compensation of such Collector shall be fixed by the Board of Supervisors by resolution. The Collector shall collect and receive all taxes imposed by this Part; furnish receipts for their payment; keep records showing amounts received by him from all taxpayers and the date of such receipts; and keep such other records as may be from time to time required by the Board of Township Supervisors. (Ord. 5, 7/3/1970, §8)

§24-109. Duties of Tax Collector.

The Earned Income Tax Collector is hereby charged with the enforcement of the provisions of this Part, and is authorized and empowered as follows:

A. To administer and enforce the provisions of this Part and all rules and regulations prescribed, adopted, and promulgated by the Board of Supervisors of the Township relating to the enforcement and administration hereof, and consistent with such rules and regulations shall have the power and authority to re-examine and correct any and all returns filed hereunder, and to compute, settle, resettle, and discharge all taxes hereby levied.

B. The Collector or any agent or employee of the Township authorized in writing by the Collector is hereby authorized and empowered to examine the books, papers and records of any employer or 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 is hereby directed and required to give to the said Collector or a duly authorized agent or employee of the Township, the means, facilities and opportunity for such examinations and investigations as are hereby authorized. The Collector 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, who he believes to have knowledge of such income.

C. Any information gained by the Collector or any authorized agent or employee of the Township, as a result of any returns, investigations, hearings, or verification; required or authorized by this Part, shall be confidential, except for official purposes and except where disclosures of the contents thereof is required by proper judicial order of decree, or as otherwise provided by law, and any person or agent divulging any information so obtained shall be subject to the penalties hereinafter provided. [Ord. 41]

(Ord. 5, 7/3/1970, §9; as amended by Ord. 41, 11/10/2011)

§24-110. Duties of Board of Supervisors.

The Board of Supervisors of the Township shall be empowered from time to time to adopt by resolution additional rules and regulations pertaining to the within Part. (Ord. 5, 7/3/1970, §10)

§24-111. Interest on Unpaid Taxes.

All taxes imposed by this Part remaining unpaid after they become due shall bear interest at the rate of 6 percent per year, and the persons upon whom said taxes are imposed shall be further liable to a penalty of ½ of 1 percent of the amount of the

unpaid tax for each month or fraction of a month for the first 6 months of nonpayment.
(*Ord. 5, 7/3/1970, §11*)

§24-112. Taxes, Interests, and Penalties Recoverable.

All taxes imposed by this Part, together with all interest and penalties accruing thereon, shall be recoverable by the Township as other debts of like amounts are recoverable.

(*Ord. 5, 7/3/1970, §12*)

§24-113. Penalties.

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

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

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

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

(*Ord. 5, 7/3/1970, §13; as amended by Ord. 41, 11/10/2011*)

§24-114. Exemptions.

The tax imposed by this Part shall not apply to any person as to whom it is beyond the legal power of the Township to impose the tax or duties herein provided.

(*Ord. 5, 7/3/1970, §14*)

Part 2**Realty Transfer Tax****§24-201. Short Title.**

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

(*Ord. 41, 11/10/2011*)

§24-202. Authority.

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

(*Ord. 41, 11/10/2011*)

§24-203. 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.

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

Document—any deed, instrument, or writing which conveys, transfers, demises, vests, confirms, or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust, or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. “Document” shall also include a declaration of acquisition required to be presented for recording under §24-202 of this Part.

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

- A. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing.
- B. The raising, breeding or training of same 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.

E. Manufacturing or processing of any kind.

Family farm partnership—a partnership of which at least 75 percent of its assets are devoted to the business of agriculture and at least 75 percent of the interests in the partnership are continuously owned by members of the same family. The business of agriculture shall include the leasing to members of the same family of property which is directly and principally used for agricultural purposes. The business of agriculture shall not be deemed to include:

A. Recreational activities, such as but not limited to hunting, fishing, camping, skiing, show competition, or racing.

B. The raising, breeding, or training of game animals or game birds, fish, cats, dogs or pets, or animals intended for use in sporting or recreational activities.

C. Fur farming.

D. Stockyard and slaughterhouse operations.

E. Manufacturing or processing operations of any kind.

Living trust—any trust, other than a business trust, intended as a will substitute by the settlor which becomes effective during the lifetime of the settlor, but from which trust distributions cannot be made to any beneficiaries other than the settlor prior to the death of the settlor.

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.

Ordinary trust—any trust, other than a business trust or a living trust, which takes effect during the lifetime of the settlor and for which the trustees of the trust take title to property primarily for the purpose of protecting, managing or conserving it until distribution to the named beneficiaries of the trust. An ordinary trust does not include a trust that has an objective to carry on business and divide gains, nor does it either expressly or impliedly have any of the following features: the treatment of beneficiaries as associates, the treatment of the interests in the trust as personal property, the free transferability of beneficial interests in the trust, centralized management by the trustee or the beneficiaries, or continuity of life.

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 Thornhurst Township including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees, and other improvements, immovables, or interests 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 percent or more of the ownership interest in which is held by 35 or fewer persons and which:

A. Derives 60 percent 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 percent or more of the value of its entire tangible asset holding 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.

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 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 other real estate; provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale.

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 paragraph .A or .B, the actual monetary worth of such interest.

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. 41, 11/10/2011)

§24-204. 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 percent of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder 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 Thornhurst Township under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate and such one-half rate shall become effective without any action on the part of Thornhurst Township; provided, however, that Thornhurst Township and any other political subdivision which imposes such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half 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, 53 P.S. §6901 *et seq.*

4. Any tax imposed by this Part that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923, P.L. 207, No. 153, 53 P.S. §701 *et seq.*, as amended, known as the "Municipal Claims and Tax Liens Act." The interest rate imposed shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in §806 of the Act of April 9, 1929, P.S. 343, No. 176, 72 P.S. §806, as amended, known as the "Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

5. The tax imposed under this Part and all applicable interest and penalties shall be administered, collected, and enforced under the Act of December 31, 1965, P.S. 1257, No. 511, 53 P.S. §6901 *et seq.*, known as the "Local Tax Enabling Act"; provided, that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Township, pursuant to §1102-D of the Tax Reform Code of 171, 72 P.S. §8102-D, authorizes and directs the Department of Revenue of the Commonwealth of

Pennsylvania to determine, collect, and enforce the tax, interest, and penalties.
(*Ord. 41, 11/10/2011*)

§24-205. Exempt Parties.

The United States, the Commonwealth or any of their instrumentalities, agencies, or political subdivisions shall be exempt from payment or 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. 41, 11/10/2011*)

§24-206. Excluded Transactions.

The tax imposed by §24-204 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 of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided said reconveyance is made within 1 year from the date of condemnation.

B. A document which Thornhurst Township is prohibited from taxing under the Constitution or statutes of the United States.

C. A conveyance to a municipality, township, school district, or county pursuant to acquisition by the municipality, township, school district, or county of a tax delinquent property at 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 nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within 1 year shall be subject to tax as if the grantor were making such transfer.

G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.

H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the

transfer was made directly from the grantor to all of the possible beneficiaries that are entitled to receive the property or proceeds from the sale of the property under the trust, 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 to a trustee of a living trust from the settlor of the living trust. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the living trust instrument.

J. A transfer for no or nominal actual consideration from a trustee of an ordinary trust to a specifically named beneficiary that is entitled to receive the property under the recorded trust instrument or to a contingent beneficiary where the transfer of the same property would be exempt if the transfer was made by the grantor of the property into the trust to that beneficiary. However, any transfer of real estate from a living trust during the settlor's lifetime shall be considered for the purposes of this Part as if such transfer were made directly from the settlor to the grantee.

K. A transfer for no or nominal actual consideration from a trustee of a living trust after the death of the settlor of the trust or from a trustee of a trust created pursuant to the will of a decedent to a beneficiary to whom the property is devised or bequeathed.

L. A transfer for no or nominal actual consideration from the trustee of a living trust to the settlor of the living trust if such property was originally conveyed to the trustee by the settlor.

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

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

O. A transfer (i) for no or nominal actual consideration between principal and agent or straw party; or (ii) fruit 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 paragraph.

P. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of 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.

Q. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more

than 2 years.

R. 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.

S. 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.

T. 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.

U. Any transfer between religious organizations or other beliefs or persons holding title for religious organization if such real estate is not being or has not been used by such transferor for Commercial purposes.

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

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

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

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

Z. Traces 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. 41, 11/10/2011)

§24-207. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in §24-206, 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 Part, corporations and associations are entities

separate from their members, partners, stockholders, or shareholders.

(Ord. 41, 11/10/2011)

§24-208. 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 percent or more of the total ownership interest in the company within a period of 3 years.

2. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of 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. 41, 11/10/2011)

§24-209. 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 consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

3. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.

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

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

(Ord. 41, 11/10/2011)

§24-210. 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. 41, 11/10/2011*)

§24-211. Proceeds of Judicial Sale.

The tax herein imposed shall be fully paid, and have priority out of the proceeds or 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. 41, 11/10/2011*)

§24-212. 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 Thornhurst Township based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from Thornhurst Township.

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

3. On or before the tenth of each month, the recorder shall pay over to Thornhurst Township all local realty transfer taxes collected, less 2 percent for use of the County, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2 percent commission shall be paid by 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. 41, 11/10/2011*)

§24-213. 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. 41, 11/10/2011)

§24-214. Civil Penalties.

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

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

(Ord. 41, 11/10/2011)

§24-215. 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 Thornhurst Township, 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 discharge by payment, or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Lackawanna 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. 41, 11/10/2011)

§24-216. 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. 41, 11/10/2011)

§24-217. Regulations.

The Board of Supervisors of Thornhurst Township is charged with enforcement and collection of the 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. 41, 11/10/2011)

Part 3**Tax Certification Fee****§24-301. Appointment of Tax Collector as Official Officer.**

The Township does hereby appoint the Township Tax Collector as the municipal officer authorized to provide tax certifications upon request by mortgage service companies and real estate agents and hereby authorizes said Township Tax Collector to assess collection and retain the fee of \$10 per tax certification for said additional services.

(Ord. 30, 11/13/1997)

§24-302. Ordinance on File in Township Offices.

Copies of this Part are on file in the Office of the Secretary of the Township, being marked and designated as the “Ordinance for Authorization of Tax Collector to Collect Tax Certification Fee from Mortgage Service Companies.”

(Ord. 30, 11/13/1997)

