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PART 1

PER CAPITA TAX

§101. DEFINITIONS.

1. The following words and phrases, when used in this Part, should have the meaning ascribed to them in this Section except where the context clearly indicates a different meaning:

COLLECTOR - the elected Township Treasurer unless some other person shall be designated by the Board of Supervisors of the Township to collect or receive the taxes imposed by this Part. [Ord. 09-00]

PER CAPITA TAX - the tax imposed by this Part. [Ord. 09-00]

PERSON - any natural person.

RESIDENT - any person domiciled in the Township of Spring, Centre County, Pennsylvania.

TAXPAYER - any person required hereunder to pay a per capita tax.

(Ord. 56-1988, 9/11/1988, §2.1; as amended by Ord. 09-00, 10/2/2000)

§102. RATE OF TAX.

The Board of Supervisors of the Township of Spring, County of Centre and Commonwealth of Pennsylvania hereby levy an annual tax for general revenue purposes of \$5 upon each resident of the Township of Spring who shall have attained the age of 21 years on or before the first day of January, 1988, the first day of the fiscal year for which the tax is levied.

(Ord. 56-1988, 9/11/1988, §2.2; as amended by Ord. 09-00, 10/2/2000)

§103. DATE TAX IS IMPOSED.

On or before the first day of January, 1988, the collector shall send to every resident of the Township of Spring over the age of 21 years a notice of the per capita tax due by such resident for the fiscal year. Such notice shall be in the form prescribed by the Board of Supervisors of the Township of Spring; provided, that the failure or omission of the collector to send, or of any taxpayer to receive such notice shall not relieve such person from the payment of such tax. Provided further, that any person who shall become a resident of the Township of Spring after the first day of January, 1988, shall not be liable for the per capita tax for that fiscal year; any person who shall cease to be a resident at any time after the first day of January, 1988, shall be liable for the full payment of the per capita tax for such year.

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(Ord. 56-1988, 9/11/1988, §2.3; as amended by Ord. 09-00, 10/2/2000)

§104. DISCOUNT AND PENALTY.

All taxpayers subject to the payment of the tax under this Part shall be entitled to a discount of 2% on the amount of such tax upon making payment of the whole amount thereof within 2 months after the date of the tax notice. All taxpayers who shall fail to make payment of any such taxes imposed against them for 4 months after the date of the notice shall be charged a penalty of 5%, which penalty shall be added to the taxes by the collector and collected by him. The collector shall furnish a receipt to every person paying such tax.

(Ord. 56-1988, 9/11/1988, §2.4)

§105. MANNER OF COLLECTION.

All taxes levied under this Part, together with all penalties, shall be recoverable by the collector in the manner authorized by the laws of the Commonwealth of Pennsylvania.

(Ord. 56-1988, 9/11/1988, §2.5)

§106. USES.

All taxes, interest and penalties collected or received under the provisions of this Part shall be used for general revenue purposes.

(Ord. 56-1988, 9/11/1988, §2.6)

§107. ENFORCEMENT AND REMEDIES.

1. Enforcement Notice.

- A. If it appears to the Township that a violation of this Part has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section.
- B. The enforcement notice shall be sent to the violator and, if applicable, the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.
- C. An enforcement notice shall state at least the following:

- (1) The name of the violator and, if applicable, the owner of record and any other person against whom the Township intends to take action.
- (2) The location of the violation and, if applicable, the property in violation.
- (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Part.
- (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (5) That the recipient of the notice has the right to appeal to the Board of Supervisors within a period of 10 days.
- (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Board of Supervisors, constitutes a violation, with possible sanctions clearly described.

2. Enforcement Remedies.

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Part shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$600 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Part to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.
- B. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this Section.
- D. District justices shall have initial jurisdiction over proceedings brought under this Section.

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(Ord. 56-1988, 9/11/1988; §2.7; as amended by Ord. 09-00, 10/2/2000)

§108. AUTHORITY.

This Part is enacted pursuant to the authority of the Local Tax Enabling Act, 1965, December 31, P.L. 1257, 53 P.S. §6901, as amended, and the taxes reenacted herein shall continue in force on a fiscal year basis without annual reenactment herein unless the rate of the tax is subsequently changed.

(Ord. 56-1988, 9/11/1988, §2.10)

PART 2

REALTY TRANSFER TAX

§201. SHORT TITLE.

This Part shall be known as the "Realty Transfer Tax Ordinance" of the Township of Spring.

(Ord. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§202. AUTHORITY.

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

(Ord. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

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

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

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

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

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

REAL ESTATE -

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

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

- A. Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or,
- B. Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

TITLE TO REAL ESTATE -

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

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

TOWNSHIP - the Township of Spring, Centre County, Pennsylvania.

VALUE -

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

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or principal of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Ord. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§204. IMPOSITION OF TAX; INTEREST.

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

(Ord. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§205. EXEMPT PARTIES.

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

(Ord. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§206. EXCLUDED TRANSACTIONS.

1. The tax imposed by §204 shall not be imposed upon:
 - A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed or confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided said reconveyance is made within 1 year from the date of condemnation.
 - B. A document which the Township is prohibited from taxing under the Constitution or statutes of the United States.
 - C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.
 - D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
 - E. A transfer or division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by 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 between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within 1 year shall be subject to tax as if the grantor were making such transfer.
 - G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
 - H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.

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- 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:
 - (1) For no or nominal actual consideration between principal and agent or straw party; or,
 - (2) From or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part.

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

- L. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.
- M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock 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.
- 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:
 - (1) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and,
 - (2) The agency or authority has the full ownership interest in the real estate transferred.

- P. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
 - Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferror for commercial purposes.
 - R. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1986, (68A Stat. 3, 26 U.S.C. §501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
 - S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
 - T. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
 - U. A transaction wherein the tax is \$1 or less.
 - V. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.
2. In order to exercise any exclusion provided in this Section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this Part.

(Ord. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§207. DOCUMENTS RELATING TO ASSOCIATIONS OR CORPORATIONS AND MEMBERS, PARTNERS, STOCKHOLDERS OR SHAREHOLDERS THEREOF.

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

(Ord. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

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§208. ACQUIRED COMPANY.

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of 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. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§209. CREDITS AGAINST TAX.

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

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

(Ord. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§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. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§211. PROCEEDS OF JUDICIAL SALE.

The tax herein imposed shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made except the state realty transfer tax, and the sheriff, or other officer, conducting said sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

(Ord. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§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 Township based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Township.
2. In order to ascertain the amount of the taxes due when the property is located in more than one political subdivision, the recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.
3. On or before the tenth of each month, the recorder shall pay over to the Township all local realty transfer taxes collected, less 2% for use of the County, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2% commission shall be paid to the County.

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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. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§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. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§214. CIVIL PENALTIES.

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

(Ord. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§215. LIEN.

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

the Court of Common Pleas of Centre 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. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§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. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

§217. REGULATIONS.

The Recorder of Deeds of Centre County is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §8101-C *et seq.* are incorporated into and made a part of this Part.

(Ord. 56-1988, 9/11/1988, §§2.61-2.68; as revised by Ord. 09-00, 10/2/2000)

PART 3

EARNED INCOME AND NET PROFIT TAX

A. Earned Income and Net Profit Tax

§301. AUTHORITY.

This Part is enacted and adopted under the authority or the Act of the General Assembly, approved December 31, 1965, P.L. 1257, *et seq.*, being known as Act No. 511 (53 P.S. §6901 *et seq.*), its amendments and supplements.

(Ord. 61-1980, 12/1/1980, §1)

§302. LEVY OF TAX ON SEPARATE CLASSES OF INCOME.

A tax for general revenue purposes of 1/2%, which is five mills, is hereby imposed on two separate classes of income as follows:

- A. Class No. 1. Earned income by residents of the Township of Spring and earned income by nonresidents of the Township of Spring for work done or services performed or rendered in the Township of Spring.
- B. Class No. 2. The net profits earned by residents of the Township of Spring and net profits from the operation of businesses, professions or other activities except corporations conducted in the Township of Spring by nonresidents of the Township of Spring.

(Ord. 61-1980, 12/1/1980, §2)

§303. DEFINITIONS.

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

BUSINESS - an enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association or any other entity.

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

CURRENT YEAR - the calendar year for which the tax is levied.

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DOMICILE - the place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses, or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME - salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or in property; not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement or payments arising under workmen's compensation acts, occupational disease acts and similar legislation, or payments commonly recognized as old age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment or payments commonly known as public assistance, or unemployment compensation payments by any governmental agency or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs including, but not limited to, programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.

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

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

NET PROFITS - the net income from the operation of a business, profession, or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession or other activity, but without deduction of taxes based on income.

NONRESIDENT - a person, partnership, association or other entity domiciled outside the taxing district.

PERSON or INDIVIDUAL - a natural person.

PRECEDING YEAR - the calendar year before the current year.

RESIDENT - a person, partnership, association or other entity domiciled in the taxing district.

SUCCEEDING YEAR - the calendar year following the current year.

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

TOWNSHIP - the geographical area of the Township of Spring.

(Ord. 61-1980, 12/1/1980, §3)

§304. IMPOSITION OF TAX.

The tax levied under this Part shall be applicable to earned income received and to net profits earned in the period beginning January 1 of 1981, and ending December 31 of 1981, or for taxpayer fiscal years beginning in the current year, except that taxes imposed for the first time shall become effective from the date specified in this Part, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed. Changes in rate shall become effective on the date specified in the ordinance.

(Ord. 61-1980, 12/1/1980, §4)

§305. DECLARATION AND PAYMENT OF TAX.

1. Net Profits.

- A. Every taxpayer making net profits shall, on or before April 15 of the current year, make and file with the officer on a form prescribed or approved by the officer a declaration of his estimated net profits during the period beginning January 1 and ending December 31 of the current year, and pay to the officer in four equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration, and the other installments on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year respectively.
- B. Any taxpayer who first anticipates any net profits after April 15 of the current year shall make and file the declaration hereinabove required on or before June 15 of the current year, September 15 of the current year, or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.
- C. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of net profits earned during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon.

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At the time of filing the final return, the taxpayer shall pay to the officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the officer on or before January 31 of the succeeding year the final return as hereinabove required.

- D. The officer may be authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.
- E. Every taxpayer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

2. Earned Income.

- A. Annual Earned Income Tax Return. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of earned income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
- B. Earned Income Not Subject to Withholding. Every taxpayer who is employed for a salary, wage, commission or other compensation and who received any earned income not subject to the provisions relating to collection at source shall:
 - (1) Make and file with the officer on a form prescribed or approved by the officer, an annual return setting forth the aggregate amount of earned income not subject to withholding from him during the period beginning January 1 and ending December 31 of the current year, and such other information as the officer may require, and pay to the officer the amount of tax shown as due thereon on or before April 15 of the succeeding year.

(Ord. 61-1980, 12/1/1980, §5)

§306. COLLECTION AT SOURCE.

- 1. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction imposing a tax on earned income or

net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered shall, within 15 days after becoming an employer, register with the officer his name and address and such other information as the officer may require.

2. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall deduct at the time of payment thereof, the tax imposed by resolution on the earned income due to his employee or employers, and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year, and January 31 of the succeeding year, file a return and pay to the officer the amount of taxes deducted during the preceding 3 month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively. Such return unless otherwise agreed upon between the officer and employer shall show the name and social security number of each such employee, the earned income of such employee during such preceding 3 month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total earned income of all such employees during such preceding 3 month period, and the total tax deducted therefrom and paid with the return. Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the officer on or before the last day of the month succeeding the month for which the tax was withheld.
3. On or before February 28 of the succeeding year, every employer shall file with the officer:
 - (1) An annual return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to the officer for the period beginning January 1 of the current year and ending December 31 of the current year.
 - (2) A return withholding statement for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, the amount of tax paid to the officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.
4. Every employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

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5. Except as otherwise provided in Section every employer who wilfully or negligently fails or omits to make the deductions required by this Section shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.
6. The failure or omission of any employer to make the deductions required by this Section shall not relieve any employee from the payment of the tax or from complying with the requirements of the ordinance or resolution relating to the filing of declarations and returns.

(Ord. 61-1980, 12/1/1980, §6)

§307. POWERS AND DUTIES OF OFFICER.

1. It shall be the duty of the officer to collect and receive the taxes, fines and penalties imposed by this Part. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.
2. Each officer, before entering upon his official duties shall give and acknowledge a bond to the political subdivision or political subdivisions appointing him. If such political subdivision or political subdivisions shall by resolution designate any bond previously given by the officer as adequate, such bond shall be sufficient to satisfy the requirements of the subsection. Each such bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of this Commonwealth. Each bond shall be conditioned upon the faithful discharge by the officer, his clerks, assistants and appointees of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required of him by virtue of his office, upon the just and faithful accounting or payment over, according to law, of all moneys and all balances thereof paid to, received or held by him by virtue of his office and upon the delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office. Each such bond shall be taken in the name of the appointing authority or authorities, and shall be for the use of the political subdivision or political subdivisions appointing the officer, and for the use of such other person or persons for whom money shall be collected or received, or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the principal on the bond. The political subdivision or political subdivisions appointing the officer, or any other person may sue upon the said bond in its or his own name for its or his own use. Each such bond shall contain the name or names of the surety company or companies bound thereon. The political subdivision or political subdivisions appointing the officer shall fix the amount of the bond at an amount equal to the maximum amount of taxes which may be in the possession of the officer at any given time. The political subdivision or political subdivisions appointing the officer may, at any time, upon cause shown and due notice to the officer, and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to such political subdivision or political subdivisions for the purpose of

mailing the bond sufficient in amount, without releasing the surety or sureties first approved from any accrued liability or previous action on such bond. The political subdivision or political subdivisions appointing the officer shall designate the custodian of the bond required to be given by the officer.

3. The officer charged with the administration and enforcement of the provisions of this Part is hereby empowered to prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the reexamination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in case of overpayment, for any period of time not to exceed 6 years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of this Part. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution by the Board of Supervisors. A copy of such rules and regulations currently in force shall be available for public inspection [subpart B of this Part].
4. The officer shall refund, on petition of, and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.
5. The officer and agents designated by him are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the officer reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the officer reasonably believes to be an employer or taxpayer is hereby directed and required to give to the officer, or to any agent designated by him, the means, facilities and opportunity for such examination and investigations as are hereby authorized.
6. Any information gained by the officer, his agents, or by any other official or agent of the taxing district, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Part shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.
7. The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.
8. The officer shall, at least quarterly, distribute earned income taxes to the appropriate political subdivisions. The political subdivisions shall not be required to request the officer to distribute the funds collected but shall at least annually reconcile their receipts with the records of the officer and return to or credit the officer with any overpayment. If the officer, within 1 year after receiving a tax payment, cannot identify the taxing jurisdiction entitled to a tax payment, he shall make payment to the municipality in which the tax was collected. Within 120 days

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of the passage of this Part, any present accumulated funds that are unclaimed shall be distributed on the same basis.

(Ord. 61-1980, 12/1/1980, §7)

§308. COMPENSATION OF INCOME TAX OFFICER.

The Income Tax Officer shall receive as compensation for his services and expenses such commission as shall be from time to time adopted by the Township.

(Ord. 61-1980, 12/1/1980, §8)

§309. SUIT FOR COLLECTION OF TAX.

1. The officer may sue in the name of the taxing district for the recovery of taxes due and unpaid under this Part.
2. Any suit brought to recover the tax imposed by this Part shall be begun within 3 years after such tax is due, or within 3 years after the declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:
 - A. Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of this Part, there shall be no limitation.
 - B. Where an examination of the declaration or return filed by any person, or of other evidence relating to such declaration or return in the possession of the officer, reveals a fraudulent evasion of taxes, there shall be no limitation.
 - C. In the case of substantial understatement of tax liability of 25% or more and no fraud, suit shall be begun within 6 years.
 - D. Where any person has deducted taxes under the provisions of this Part, and has failed to pay the amounts so deducted to the officer, or where any person has wilfully failed or omitted to make the deductions required by this Section, there shall be no limitation.
 - E. This Section shall not be construed to limit the Board of Supervisors from recovering delinquent taxes by any other means provided by this act.
3. The officer may sue for recovery of an erroneous refund provided such suit is begun 2 years after making such refund, except that the suit may be brought within 5 years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

(Ord. 61-1980, 12/1/1980, §9)

§310. INTEREST AND PENALTIES.

If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of 1/2% of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

(Ord. 61-1980, 12/1/1980, §10)

§311. FINES AND PENALTIES FOR VIOLATION OF THIS PART.

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 employers, or fails, neglects or refuses to deduct or withhold the tax from his employers, 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 thereof, be sentenced to pay a fine of not more than \$500 plus costs and, in default of payment of said fine and costs, to be imprisoned for a period not to exceed 30 days. [Ord. 09-00]
2. Any person who divulges any information which is confidential under the provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$500 plus costs and, in default of payment of said fines and costs, to imprisonment for a term not to exceed 30 days. [Ord. 09-00]
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. 61-1980, 12/1/1980, §11; as amended by Ord. 09-00, 10/2/2000)

B. Rules and Regulations

§321. RULES AND REGULATIONS FOR TAX ON EARNED INCOME, AS WELL AS ON NET PROFITS.

1. All residents and employers within the Township of Spring, and all nonresidents who receive salaries, wages, commissions, wages or other compensation for work done or service performed in the Township of Spring by nonresidents, as well as on the net profits of businesses, professions or other activities conducted in the Township by nonresidents, are subject to these rules and regulations and to the earned income tax ordinance of the Township of Spring [subpart 1 of this Part], which levies a tax on earned income, as well as on net profits, and requiring resident employers to withhold the tax from their employers.
2. The tax ordinance and these rules and regulations are continuing ones, applicable until changed by the Township. Copies of the original tax ordinance may be examined at the Township office [subpart A].

(Ord. 61-1980, 12/1/1980)

§322. DEFINITIONS.

The following words and phrases used in this Part have the following meanings unless the context clearly indicates a different meaning:

DOMICILE - the place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses, or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME - salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or in property; not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement, or payments arising under workmen's compensation acts, occupational disease acts and similar legislation or payments commonly recognized as old age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, or payments commonly known as public assistance or unemployment compensation payments made by any governmental agency, or payments to reimburse expenses, or payment made by employers or labor unions for wage and salary supplemental programs including, but not limited to, programs

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covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, Social Security and retirement.

EMPLOYEE - a natural person employed by an "employer" on a salary, wage, commission or other compensation basis.

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

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

NET PROFITS - the net income from the operation of a business, profession, or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession or other activity, but without deduction of taxes based on income.

RESIDENT - see §323(1).

ORDINANCE - the official Township or Board of Supervisors's action, by resolution or ordinance, levying the earned income and net profits tax [this Part].

TAXING DISTRICT or DISTRICT - the Township of Spring, which has levied the earned income tax and in addition thereto the net profits tax, and requiring resident employers to withhold the tax.

(Ord. 61-1980, 12/1/1980, Art. 1)

§323. IMPOSITION OF TAX.

1. Persons Subject to Tax.

A. All residents of the Township of Spring. A resident is an individual who is domiciled in the taxing district as evidenced, among other things, by one or more of the following:

- (1) By his customarily being physically present, sleeping and eating there.
- (2) By his maintaining religious, civic and club affiliations there.
- (3) By his holding himself out as residing there, i.e., giving address in registration for licenses, voting, payment of per capita, personal property or income taxes.
- (4) By his spouse and minor children living there.

- (5) By the center of his affairs appearing to be there.
 - B. Normally it is not difficult to determine the residence or domicile of an individual because most of the determining factors usually point to one conclusion. Obviously, if a person has all of the foregoing factors occurring in one district, he is a resident of that district.
 - C. Of more difficulty is the situation concerning individuals as to whom some of the factors occur in one district and others take place elsewhere. Each case must be determined solely on its own facts.
 - D. Nonresidents Who Are Subject to The Tax. In accordance with the provisions of Act No. 511, nonresidents of the Township of Spring are also subject to the tax for work done or services performed or rendered in the Township of Spring, as well as on the net profits earned by such nonresidents for businesses, professions or other activities conducted in the Township of Spring by such nonresident.
2. What is Taxed.
 - A. The tax is imposed on two classes of income:
 - (1) Earned income; and,
 - (2) Net profits of businesses.
 - B. Both of these two classes of income are defined in §322 of this subpart. These items are subject to tax whether the taxpayer receives them directly or through an agent.
3. What is Included in Earned Income.
 - A. Examples of earned income (without intending in any way to limit the provisions of this Part to these examples) are:
 - (1) Salaries.
 - (2) Wages.
 - (3) Commission.
 - (4) Bonuses.
 - (5) Drawing accounts (if amounts received as a drawing account exceed the salary or commissions earned, the tax is payable on the amounts received. If the employee subsequently repays to the employer any amounts not in fact earned, the tax shall be adjusted accordingly.)
 - (6) Incentive payments.

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- (7) Tips.
 - (8) Fees.
 - (9) Benefits accruing from employment including, but not limited to, annual leave, vacation, holiday, sickness and separation benefits, but excluding benefits mentioned in subsection (5)(A) of this Section.
 - (10) Taxes assumed by the employer for the employee.
 - (11) Regular wages received during a period of sickness or disability.
 - (12) Deferred annuity payments.
 - (13) National Guard pay (except active duty).
 - (14) 1-W Classification pay.
 - (15) Stipends paid to graduate assistants.
 - (16) All other forms of compensation for an employee's services.
- B. Neither the kind nor rate of payment, nor the manner of employment exempts an employee from the tax. Compensation received in the form of property shall be taxed at its fair market value at the time of receipt.
4. What is Included in "Net Profits." Examples of net profits (without intending in any way to limit the provisions of this Part to these examples) are:
- A. The net profits of a business or profession or of farm operations conducted by an individual or by a husband and wife, as computed according to the laws, regulations and procedure for computing Federal Income Tax "net profits" or "net farm profits" as required to be reported on Federal Income Tax Form 1040 (Schedules C or F of the current year edition).
 - B. Receipts reportable for Federal income tax purposes, as derived from a fiduciary, partnership, small business corporation or joint venture (Federal Income Tax Form 1065), except any portion thereof resulting from things not taxed by this Part, such as capital gains, real estate, rentals or interest, as set forth under subsection (5) of this Section.
 - C. Royalties received by authors, inventors, etc.
 - D. Income from the operation of hotels, motels, trailer camps, tourist homes, boarding houses and other similar businesses.
 - E. Income from the business of renting personal property.

- F. All other net profits of an enterprise, venture or other activity, whether such activities are conducted within or outside the taxing district.
5. Exclusions from Tax. The following are not considered to be earned income and are not subject to the tax:
- A. Sickness, disability or retirement benefits paid, except regular wages as provided in §322(3)(A)(11).
 - B. Payments made under any public assistance or unemployment compensation legislation.
 - C. Compensation or bonuses paid by a State or the United States for active military service in the Armed Forces, except National Guard and I-W pay.
 - D. Death benefit payments to an employee's beneficiary or estate, whether payable in a lump sum or otherwise.
 - E. Proceeds of life insurance policies.
 - F. Cash or property received as a gift, by will or by statutes of descent and distribution.
 - G. Interest and dividends.
 - H. Rents derived from mere "passive" or "investment" ownership or subleasing of real estate without the furnishing by the lessor of services to the leased premises or to the lessee other than gas, electricity, water, sewerage, and heat. (Such rents are considered to be the return solely from invested capital and not profits from the operation of a business activity or enterprise taxed by this Part). Furnishing of services to common portions, and general preservation of rented real estate shall not make rents described in this subsection taxable.
 - I. Value of meals and lodging furnished to domestics or other employees by the employer for the latter's convenience.
 - J. Capital gains.
 - K. Social Security benefits.
 - L. Sub-chapter S corporation earnings.
 - M. Payments received from annuities and deferred income plans.
 - N. Damages for personal injuries.
 - O. Scholarships and fellowships.

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6. Resident Taxation. The entire earned income, as well as the net profits received in or earned by a resident of the taxing district is subject to this tax. Neither the source of the earned income or net profits nor the place where it is received and/or earned exempts a resident from tax.

7. Deductions and Losses.

A. Deductions.

- (1) Employee's unreimbursed business expenses.
- (2) Business expenses for which an employee has not been reimbursed are allowed as a deduction from gross wages provided such expenses are necessary (required by the employer) in order for the taxpayer to keep his present job. For example, a salesman on a commission basis may deduct from his gross earnings those unreimbursed expenses incurred in producing his gross income, to the extent that they were allowable for Federal income tax purposes.
- (3) Examples (but not limited to) of expenses which may not be deducted are travel to and from work; cost of meals and lodging for salesmen and truck drivers, etc. unless the "away from home overnight" test as established by the Federal Government is met; dues to unions or professional societies; uniforms and work clothing; tools; license fees; tuition fees; educational expenses not required by taxpayer's employer to keep his present job; office space and facilities unless required by employer; and personal expenses such as medical, contributions, interest, other taxes, gifts and entertainment, subscriptions, travel, relocation expenses, etc.

B. Losses.

- (1) Taxpayers are not allowed to offset a gain in one class of income against a loss in another class of income. If a net loss is incurred, zero must be entered on the appropriate line of the annual earned income and net profits tax return. Losses may be applied only in the year in which the loss was actually incurred, and may not be carried over to subsequent years. One person's losses may not be deducted from his or her spouse's earnings.
- (2) Example: A person who is employed and receives a wage or salary may not offset against such income the losses incurred in the operation of a business, profession, farm, partnership, small business corporation, enterprise or other venture.

(Ord. 61-1980, 12/1/1980, Art. 2)

§324. COLLECTION AT THE SOURCE.

1. Employers Required to Withhold. Every employer having an office, factory, workshop, branch, warehouse or other place of business located within the taxing district, and who employs one or more persons (other than domestic servants in a private home) for a salary, wage, commission or other compensation, shall deduct the tax from the resident employee's wages at the time of payment thereof.
2. Voluntary Withholding. Any employer located outside the taxing district may voluntarily withhold the tax from employees who are residents of the taxing district but who are employed outside the district.
3. Registration of Employers.
 - A. Each employer withholding or required to withhold tax pursuant to subsections (1) or (2), above, shall register with the appropriate officer such employer's name and address and such other information as the officer may require within 15 days after becoming a withholding employer.
 - B. All employers who have a place of business located within the taxing district shall maintain complete records of all employees for a period of 6 years in such form as to enable the officer to determine the employer's liability to withhold for each employee, the amount of taxable income for each employee, the actual amount withheld; the actual amount transmitted to the Officer and such other information available to such employer as will enable the officer to carry out his responsibilities.
4. Liability of Employee. Failure of any employer to withhold tax shall not relieve the employee from payment of such tax.

(Ord. 61-1980, 12/1/1980, Art. 3)

§325. PAYMENT OF TAX AND RETURNS.

1. Annual Returns of Taxpayers.
 - A. On or before April 15 of each year every person who was a resident of the Township of Spring, and all nonresidents subject to the tax, for all or any part of the preceding calendar year shall file with the appropriate officer an annual tax return showing all earned income, as well as net profits received and/or earned for the previous year.
 - B. If a person has no earned income to report, the word "none" shall be entered on the annual tax return, and the return shall be signed, dated and returned to the officer with an explanation (military service, retired, disability income only, etc.).
 - C. If self-employment profit is incurred, the type of business, profession or enterprise shall be indicated on the annual tax return and the amount of the profit shall be shown on the appropriate line of the return. If a self-employ-

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ment loss is incurred, "zero" shall be entered on the appropriate line of the annual tax return.

- D. When a return is made for a fiscal year, the return shall be filed within 105 days from the end of said fiscal year.
- E. Such return shall also show the taxpayer's name, address, place or places of employment or business, the amount of tax due, the amount of any credit claimed for tax withheld by an employer (with a copy of the withholding statement showing amount of tax withheld) and such other information as may be indicated on the return form or as may be required by the officer. Every person subject to the tax shall file such return regardless of the fact that his wages may have been subject to withholding of the tax by his employer and regardless of whether or not tax is due.
- F. At the time of filing the annual return, the taxpayer shall pay any tax due. Total balances less than \$1 need not be paid.
- G. Tax returns must be signed and dated by the taxpayer(s) in the space(s) provided.

2. Quarterly Payment of Taxpayers. In addition to the annual tax return, a declaration or estimated income tax form must be filed by all taxpayers who anticipate earned income or net profits in excess of \$2,500 in a given calendar year or fiscal year, if the tax due thereon is not withheld by the employer(s). Quarterly payments of 1/4 of the total estimated tax due for the year shall be made to the appropriate officer at the following times:

<u>For the Quarter Comprising the Following Months in Which Earned Income or Net Profits are Received:</u>	<u>Quarterly Payment (1/4 of total estimated tax owed) Due on or Before:</u>
Jan., Feb., March:	April 30
April, May, June	July 31
July, Aug., Sept.:	October 31
Oct., Nov., Dec.:	January 31

3. Returns of Employers and Payment of Withheld Tax.

- A. Every employer required to withhold the tax shall file a return on the proper form setting forth the name, Social Security number, address, municipality of residence and amount of tax withheld for each employee, and shall remit the total sum thereof to the appropriate officer at the following times:

<u>For the Quarter Comprising the Following Months in Which Wages are Paid:</u>	<u>Quarterly Payment (1/4 of total estimated tax owed) Due on or Before:</u>
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Jan., Feb., March:	April 30
April, May, June	July 31
July, Aug., Sept.:	October 31
Oct., Nov., Dec.:	January 31

- B. Every employer who discontinues business prior to the completion of the taxable year shall, within 30 days after discontinuance of business, file and furnish the returns required by this Section covering periods between the last such returns and date of discontinuing business and transmit to the officer all tax remaining due.

4. Fiscal Years.

- A. Normally taxpayers shall use the calendar year method for reporting and paying the tax.
- B. A taxpayer, by filing with the officer his written election to do so, may make returns and pay tax on the same fiscal year basis used for Federal income tax purposes. (Refer to subsection (1)(D).)

5. Cash or Accrual Basis. A taxpayer may report income on either the cash or accrual basis as those terms are used for Federal income tax purposes. The basis used by the taxpayer shall be the same as used by the taxpayer for Federal income tax purposes.

6. Extensions.

- A. A taxpayer who requires an extension of time in which to file his annual tax return shall make written application to the appropriate officer no later than 105 days from the end of the calendar or fiscal year for which the return will be filed. A taxpayer who is granted an extension of time for filing his Federal tax return shall not automatically be entitled to a similar extension of time for filing his local return.
- B. Interest at the rate of 6% per annum must be paid even though an extension of time for filing is granted.

7. Change in Federal Taxable Income. If the amount of a taxpayer's earned income or net profits reported on his annual Federal income tax return is changed or corrected either by action of the Internal Revenue Service or by the individual's filing of an amended annual Federal return, the taxpayer shall report to the appropriate officer such change or correction within 30 days after the date when the final such change or correction was determined.

(Ord. 61-1980, 12/1/1980, Art. 4)

§326. ADMINISTRATION AND ENFORCEMENT.

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1. Income Tax Officer/Collector. The officer is charged with the administration and enforcement of this Part and is authorized to act on behalf of the Township of Spring in such administrative and enforcement matters.
2. Requests for Rulings. Any taxpayer or employer desiring a specific ruling concerning this Part shall submit all pertinent facts in writing to the appropriate officer who shall issue a ruling.
3. Examination of Books and Records of Taxpayers and Employers.
 - A. The officer and agents designated in writing by him are authorized to examine the books, papers and records of any taxpayer or supposed taxpayer or of any employer or supposed employer in order to verify the accuracy of any return; or, if no return was filed, to ascertain the tax due, if any. Every taxpayer or supposed employer is required to give the officer or any agent so designated by him, the means, facilities and opportunity for such examination and investigations as are authorized.
 - B. Information obtained by the officer or any other official or agent of the officer as a result of any return, investigation, hearing or verification required or authorized, is confidential and may not be disclosed to any person, except for official use in connection with administration or enforcement of this Part, or as otherwise provided by law.
4. Records to be Kept by Taxpayers. Taxpayers and employers subject to this Part are required to keep such records as will enable the filing of true and accurate returns, whether of taxes withheld at source, or of taxes payable upon earned income or net profits, or both; and such records shall be preserved for a period of not less than 6 years in order to enable the officer to verify the correctness and accuracy of the returns filed.
5. Refunds. A completed annual tax return must be filed before a request for refund can be considered. Depending upon the nature of the refund, additional documentation to substantiate the request may be required. Refund requests will not be processed until the necessary documentation is provided. Amounts less than \$1 will be refunded only upon written request of the taxpayer, addressed to the officer.
6. Interest and Penalties. If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of 1/2% of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for recovery of any such tax, the person liable therefor shall, in addition, be liable for the cost of collection and interest and penalties herein imposed.
7. Fines and Penalties for Violations. Any person who violates any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed \$500 plus costs and, in default of payment of said fine and costs, to imprisonment for a

term not to exceed 30 days. Some of the violations which may result in such conviction are: [Ord. 09-00]

- A. Revelation for unauthorized purposes by any officer or employee or agent of the officer or taxing district of any confidential information acquired as a result of the operation of this Part.
 - B. Failure, neglect or refusal on the part of any person, any partner or a partnership or any officer of a corporation or association to file any report or return, or to pay, deduct from wages, or transmit any tax, penalty or interest required of such person, partnership, corporation or unincorporated association.
 - C. Failure, neglect or refusal to maintain or to reveal to the officer or his authorized representative, or to permit the latter to examine books, records or papers relevant to the tax imposed hereunder.
 - D. Knowingly making any incomplete, false or fraudulent report or return or attempting to do any other thing to avoid payment of the tax in whole or in part.
8. Concurrent Remedies. Imposition of any fine or imprisonment shall not bar either civil liability for tax, penalty or interest or prosecution for embezzlement, fraudulent conversion, theft or other offense under the Pennsylvania Crimes Code.
9. Failure to Receive Forms. Failure of a taxpayer or employer to receive forms or returns required by this Part does not excuse any failure to file any reports or returns required or to pay any tax due.

(Ord. 61-1980, 12/1/1980, Art. 6; as amended by Ord. 09-00, 10/2/2000)

PART 4
STREET LIGHT TAX

§401. AUTHORITY FOR ENACTMENT.

This Part is enacted under the authority of the Second Class Township Code, Article X, §2001 (53 P.S. §67001-67003).

(Ord. 2003-06, 12/8/2003, §1)

§402. ESTABLISHMENT OF DISTRICTS.

1. The following geographical areas of the Township are hereby designated as districts for street lighting purposes under the provisions of this Part:
 - A. District No. 1
Village of Pleasant Gap as per Map No. 1
 - B. District No. 2
Village of Coleville as per Map No. 2
 - C. District No. 3
Halfmoon Hill as per Map No. 3
 - D. District No. 4
Edenberry Development as per Map No. 4
 - E. District No. 5
Stover Development as per Map No. 5
 - F. District No. 6
Brockhoff Heights Development as per Map No. 6
 - G. District No. 7
Springfield Development as per Map No. 7
 - H. District No. 8
Blanchard Street-Forge Road including Greenhill Farms as per Map No. 8
 - I. District No. 9
Bush Addition as per Map No. 9
2. Copies of the maps showing the geographical limits of each district are on file at the Township Building and may be inspected during regular business hours.

(Ord. 2003-06, 12/8/2003, §2)

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§403. ASSESSMENT OF TAX.

In accordance with §2003(3) a uniform annual assessment upon each property benefited within each district will be levied at an annual rate to be determined by resolution of the Township Supervisors adopted during December of each calendar year. Any previous determination or rate of tax is hereby repealed.

(Ord. 2003-06, 12/8/2003, §3)

§404. NO EXEMPTIONS.

In accordance with §2003(c) all properties within the district are subject to assessment for this purpose whether or not the property is exempt from taxation by existing law.

(Ord. 2003-06, 12/8/2003, §4)

§405. COLLECTION BY TAX COLLECTOR.

Each annual assessment for street lights as authorized by this Part and as established from time to time by the Township Supervisors shall be filed with the Township Tax Collector who shall bill the assessment for street lights on the annual real estate tax bill for general Township purposes. The Township Tax Collector shall give 30 days written notice of all assessments made under this Part stating the amount of such assessment, the due date thereof to the owner of each property assessed by mailing such notice to the last known address of such owner.

(Ord. 2003-06, 12/8/2003, §5)

§406. COLLECTION.

If any assessments are not paid within 90 days after the due date, the same shall be collected together with interest and penalties by municipal claims filed against the property of the delinquent owner.

(Ord. 2003-06, 12/8/2003, §6)

PART 5

EMERGENCY AND MUNICIPAL SERVICES TAX

§501. TITLE.

This Part, and any supplements and amendments thereto, shall be known and may be cited as the “Spring Township Emergency and Municipal Services Tax Ordinance.”

(Ord. 2005-02, 2/7/2005, §I)

§502. DEFINITIONS.

FISCAL YEAR - the 12-month period beginning January 1st and ending December 31st in any tax year.

TAX - the Emergency and Municipal Services Tax in the amount of \$10 levied by this Part.

TAX RECEIVER - the person designated by the Township of Spring for the collection of the Emergency and Municipal Services Tax imposed by this Part.

(Ord. 2005-02, 2/7/2005, §§II–IV)

§503. LEVY.

For purposes of (A) road construction and/or maintenance, (B) police, fire, and/or emergency services; and/or (C) reduction of property taxes, the Township of Spring here-by levies a tax upon the privilege of engaging in an occupation during the year. Each individual who exercises such privilege shall pay the tax in the amount of \$10 in accordance with this Part. This tax is in addition to all other taxes of this kind or nature heretofore levied by the Township of Spring; provided, however, that there is hereby exempted from this tax any person whose total income from all sources is less than \$1,000 per annum.

(Ord. 2005-02, 2/7/2005, §V)

§504. DUTY OF EMPLOYERS.

Each employer within the Township of Spring as well as each employer outside the Township of Spring but engaging in business within the Township of Spring, is hereby charged with the duty of collecting the said tax of \$10 per year, in accordance with the terms of this Part, from each employee who engaged in an occupation, as herein defined, for the benefit of said employer or in the service of said employer within the Township of Spring during the fiscal year. Such employer shall make a return and

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payment of said tax to the tax receiver, and each such employer is hereby authorized to deduct said tax from each such employee, whether or not such employee is paid by salary, wages, commission, and whether or not part or all of such services are performed within the Township of Spring.

(Ord. 2005-02, 2/7/2005, §VI)

§505. EFFECTIVE DATE.

This Part is enacted under the authority of Act No. 222 of 2004 and effect on January 1, 2006, to be in affect for the fiscal year 2005 and each fiscal year thereafter until revised, amended or revoked by action of the Board of Supervisors of the Township of Spring.

(Ord. 2005-02, 2/7/2005, §VII)