

CHAPTER 24

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Part 1

Real Estate Transfer Tax

§101. Short Title. This Part shall be known as the "Realty Transfer Tax Ordinance of Borough. (Ord. 676, 3/2/1987, §1)

§102. Authority. A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Borough, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place, as authorized by Article XI-D, "Local Real Estate Transfer Tax," 72 P.S. §8101 et seq. (Ord. 676, 3/2/1987, §2)

§103. Definitions.

ASSOCIATION - a partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two (2) 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 thirty (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 §102.

FAMILY FARM CORPORATION - a corporation of which at least seventy-five percent (75%) of its assets are devoted to the business of agriculture and at least seventy-five percent (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:

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

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

BOROUGH - the Borough of Emmaus.

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

REAL ESTATE

A. All lands, tenements or hereditaments within this Borough, including without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.

B. A condominium unit.

C. A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

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

A. derives sixty percent (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 ninety percent (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 thirty (30) years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

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

VALUE

A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against real estate: Provided, That where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;

B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations;

C. In the case of an easement or other interest in real estate, the value of which is not determinable under clause (A) or (B), the actual monetary worth of such interest; or

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

(Ord. 676, 3/2/1987, §3)

§104. Imposition of Tax; Interest.

1. Imposition of Tax. The Borough of Emmaus adopts provisions of Article XI-D of the Tax Reform Code of 1971 and imposes a Realty Transfer Tax as authorized under that Article subject to the rate limitations therein. The tax imposed under this Section shall be at the rate of 1% of the value of the real estate represented by any document recorded with regard to the transfer of realty.

2. Administration. The tax imposed under subsection .1 and all applicable interest and penalties shall be administered, collected, and enforced under the Act of December 31, 1965, (P.L. 1257, No. 511) as amended, 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 Borough of Emmaus, pursuant to §1102-D of the Tax Reform Code Of 1971, 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.

3. Interest. Any tax imposed under subsection .1 that is not paid by the date that 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. §7101, et seq., as amended, known as "The Municipal Claims and Tax Liens Act." The interest rate shall be 10% per annum.

(Ord. 676, 3/2/1987, §4; as amended by Ord. 1019, 12/4/2006, §§1-4)

§105. 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. 676, 3/2/1987, §5)

§106. Excluded Transactions. The tax imposed by §104 shall not be imposed upon:

A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed or confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided said reconveyance is made within one (1) year from the date of condemnation.

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

C. A conveyance to 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 covenants; however, if any of the parties take shares greater in value than their undivided interest, tax is, due on the excess.

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

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

H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.

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

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

K. A transfer (i) for no or nominal actual consideration between principal and agent or straw party; or (ii) from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part.

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

L. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.

M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two (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: (i) the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and (ii) the agency or authority has the full ownership interest in the real estate transferred.

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

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

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

S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least seventy-five percent (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 one dollar (\$1.00) or less.

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

In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the Statement of Value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the Statement of Value may be limited to an explanation of the reason such document is not subject to tax under this Part. (Ord. 676, 3/2/1987, §6)

§107. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof. Except as otherwise provided in §106, 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. 676, 3/2/1987, §7)

§108. 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, ninety percent (90%) or more of the total ownership interest in the company within a period of three (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 thirty (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. 676, 3/2/1987, §8)

§109. 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. 676, 3/2/1987, §9)

§110. 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. 676, 3/2/1987, §10)

§111. 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. 676, 3/2/1987, §11)

§112. 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 Borough based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Borough.

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

3. On or before the tenth of each month, the recorder shall pay over to the Borough all local realty transfer taxes collected, less two percent (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 two percent (2%) commission shall be paid to the county.

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

(Ord. 676, 3/2/1987, §12)

§113. 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. 676, 3/2/1987, §13)

§114. 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 fifty percent (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 five percent (5%) of the amount of such tax if the failure is for not more than one (1) month, with an additional five percent (5%) for each additional month or fraction thereof during which such failure continues, not exceeding fifty percent (50%) in the aggregate. (Ord. 676, 3/2/1987, §14)

§115. Lien. The tax imposed by this Part shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Borough, which lands, tenements, hereditaments or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this Part, said lien to begin at the time when the tax under this Part is due and payable, and continue until discharged by payment, or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Lehigh 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. 676, 3/2/1987, §15)

§116. 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. 676, 3/2/1987, §16)

§117. Regulations. The Recorder of Deeds of Lehigh 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. 676, 3/2/1987, §17)

§118. Severability. If any sentence, clause, section or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Part. It is hereby declared as the intent of the Borough Council that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 676, 3/2/1987, §18)

Part 2
Earned Income Tax

§201. Imposition of Tax.

1. A tax for general revenue purposes of one percent (1%) is imposed on:

A. Earned income earned on and after January 1, 1982, by residents of the Borough of Emmaus;

B. Earned income earned on and after January 1, 1982, by non-residents of the Borough for work done or services performed or rendered in the Borough of Emmaus;

C. The net profits earned on and after January 1, 1982 by residents of the Borough of Emmaus; and

D. The net profits earned on and after January 1, 1982, from the operation of businesses, professions or other activity, except corporations, conducted in the said Borough by non-residents of the Borough of Emmaus.

2. The tax levied under 1.A and 1.B shall relate to and be imposed upon earned income paid by an employer, or on his behalf, to a person who is employed by him. The tax levied under 1.C and 1.D herein shall relate to and be imposed on the net profits of any business, profession, or other activity carried on by any person or owner or proprietor, either individually or in association with some other person or persons. Any net loss resulting from any such business, profession or other activity shall not be deductible from any earned income subject to the tax levied under 1.A or 1.B herein, but the taxes levied under 1.A-D herein shall be deemed to be separate and distinct levies.

3. Payments to Individual Retirement Accounts (IRA), Keough plans, and other similar accounts are not to be deducted from earned income, nor net profits in arriving at the tax due under §201(1.A-D).

(Ord. 630, 11/16/1981, §1)

§202. Section 13 of Local Tax Enabling Act, with Certain Options, Incorporated by Reference. Section 13 of the said Act of 1965, P.L. 1257 No. 511, is hereby adopted and incorporated by reference and made a part of this Part, to the same extent as if the full text of the said section were set out verbatim in this Part, except that:

1. In the case of net profits, the Borough elects to operate under the option set forth in Subsection III-A (1)ii of the said Section 13, requiring an annual declaration of estimated net profits and quarterly payments thereof, rather than annual payments of the tax due on net profits for the preceding year as provided in Subsection III-A (1)i; and

2. In the case of earned income not subject to withholding, the Borough elects to operate under the option set forth in Subsection III-B (2) requiring quarterly returns, with accompanying payment of the tax, rather than the annual return and payment of the tax for the preceding year

as set forth in Subsection III-B (1). Provided: the Income Tax Officer may provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payment of the estimated tax on net profits in cases where a taxpayer who has previously filed a declaration of estimated net profits anticipates additional net profits not previously declared or finds that he has over-estimated his anticipated net profits.

(Ord. 630, 11/16/1981, §2)

§203. Income Tax Officer; Bond. Borough Council may from time to time appoint and designate a person to serve as Income Tax Officer, and the bond of the Income Tax Officer shall be filed with the Borough Secretary.

(Ord. 630, 11/16/1981, §3)

Part 3

Mechanical Amusement Device Tax

§301. Definitions. Unless otherwise expressly stated, the following terms shall have, for the purpose of this Part, the meaning herein indicated:

AMUSEMENT GAME - any mechanical, electric, or electronic device used as designed to be operated for entertainment as a game by the insertion of a piece of money, coin, token or other article, or by paying money to have it activated. Provided: that it shall not include any gambling device or any mechanism that has been judicially determined to be a gambling device.

DEVICE - any juke box and/or mechanical amusement device taxable under this Part.

JUKE BOX - any music vending machine upon which the insertion of a coin, slug, token, plate, disc, or key into any slot, crevice, or other opening, for the emission of songs, music or similar amusement.

MECHANICAL AMUSEMENT DEVICE - any device, other than a juke box, which, upon insertion of a coin, slug, token, plate, or disc, may be operated for use as a game, entertainment, or amusement.

PERSON - natural person, firm, association, co-partnership, or corporation (except such corporations as are exempt from taxation under the Act of Assembly of December 31, 1965, No. 511, and its amendments.

(Ord. 648, 2/7/1983, §1)

§302. Imposition of Tax. The following taxes are imposed for general Borough purposes:

On each mechanical amusement device or amusement game installed for use or available for rental within the Borough - fifty dollars (\$50.00) per calendar year or portion thereof.

On each juke box installed for use or available for rental within the Borough - twenty-five dollars (\$25.00) per calendar year or portion thereof.

The taxes charged in this section can be changed from time to time by resolution of the Borough Council of Emmaus.

(Ord. 648, 2/7/1983, §2)

§303. Payment of Tax. The taxes imposed under this Part shall be payable to the Borough of Emmaus by the person operating or managing any device subject to such tax, unless such tax shall first be paid by the person owning or leasing such device. In the case of any device installed for use or available for rental on or before January 3, 1983, such tax shall be payable on or before February 7, 1983, and annually thereafter so long as the device remains installed or available for rental. In the case of any such device installed for use after January 3, 1983, such tax shall be payable at the time of installation or first rental and thereafter on or before January 3 of each year as long as the device remains installed or

available for rental. Any taxes payable under this Part after the first day of January of any year shall be at a quarterly prorated charge of the rates as specified in §302 hereof. No deduction or refund of any tax under this Part shall be granted in the case of any device destroyed, stolen, sold, or otherwise disposed, of any payment of said tax. (Ord. 648, 2/7/1983, §3)

§304. Certificates. The Borough Manager shall procure, at the expense of the Borough, a sufficient number of certificates on each of which the following information shall be printed or inserted in ink or by typewriter: the name of the Borough, the number of the certificate, the name and address of the person paying the tax, the year for which the tax shall have been paid, the date on which the tax shall have been paid, and type of device for which the tax shall have been paid.

Whenever any tax shall have been paid under this Part, the Borough Manager shall prepare in duplicate a certificate. The original of such certificate shall be given to the person paying the tax and shall be kept available for inspection on the premises by any authorized representative of the Borough. The duplicate shall be kept on file by the Borough Manager.

In the case of the loss, defacement, or destruction of any original certificate, the person to whom such certificate was issued shall apply to the Borough Manager, who may issue a new certificate upon payment of a fee of five dollars (\$5.00), and who shall amend the duplicate of the certificate first issued in case that a new certificate has been issued.

(Ord. 648, 2/7/1983, §4)

§305. Confidentiality of Information. Any information gained by the Borough Manager or any other official or agent of the Borough as a result of any returns, investigations, or verifications required or authorized by this Part shall be confidential, except for official purposes, and except in accordance with proper judicial order, or as otherwise provided by law. Any disclosure of any such information, contrary to the provisions of this section, shall constitute a violation of this Part. (Ord. 648, 2/7/1983, §5)

§306. Tax Penalties.

1. If any tax imposed in pursuance of this Part shall not be paid when due, a penalty of ten percent (10%) of the amount of tax due and unpaid shall be added thereto, plus costs of prosecution and/or collection.

2. All taxes levied by this Part, together with all penalties, shall be recoverable by the Borough Solicitor as other debts of like amount are recovered.

(Ord. 648, 2/7/1983, §§6, 7)

§307. Violation Penalties. Any person convicted before the appropriate authority of violating or failing to carry out any of the provisions or requirements of this Part or of neglecting, failing, or refusing to furnish correct and complete reports or returns or to pay over any tax

levied by this Part at the time required or of knowingly making any incomplete, false, or fraudulent returns; or for attempting to do anything whatever to avoid the payment of the whole or any part of the tax imposed by this Part, shall be liable to a fine or penalty not exceeding three hundred dollars (\$300.00) for each and every offense, and the costs of prosecution thereof, and/or imprisonment for a period not exceeding ninety (90) days. All fines and penalties shall be paid to the Borough of Emmaus.

Provided: that such fine or penalty shall be in addition to any other penalty imposed by any other section of this Part.

(Ord. 648, 2/7/1983, §8; as amended by Ord. 675, 11/17/1986)

Part 4

Local Services Tax

§401. Authority of Enactment. This Part is enacted under authority of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 53 P.S. §6901 et seq., as hereinafter amended, supplemented, modified or re-enacted by the General Assembly of Pennsylvania, and shall take effect January 1, 2008. (Ord. 1031, 10/15/2007, §1)

§402. Definitions. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

COMPENSATION - salaries, wages, commissions, tips, bonuses, fees, gross receipts, or any other earned income.

EMMAUS BOROUGH - the area within the corporate limits of the Borough of Emmaus.

EMPLOYER - any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency, or any other body engaged in business or situated in the Borough, employing one (1) or more employees engaging in the occupation other than domestic servants.

MILITARY SERVICE-CONNECTED DISABILITY - a military service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred (100) percent permanent disability.

OCCUPATION - any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, for which monetary compensation is received or charged.

RESERVE UNIT OF THE ARMED FORCES - the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

TAX - the local services tax in the amount of fifty-two (\$52.00) dollars levied by this Part. The pro rata share of the tax assessed on a person for a payroll period shall be determined by dividing the combined rate of the local services tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year.

TAX COLLECTOR - an agency or person designated by Borough Council to collect the local services tax.

TAXPAYER - any natural person liable for the tax levied by this Part.

(Ord. 1031, 10/15/2007, §2)

§403. Imposition of Tax. A tax for general revenue purposes, in the amount of fifty-two (\$52.00) dollars, is hereby imposed upon the privilege of

engaging in an occupation within the Borough in the year after the effective date of this Part, and in each following calendar year. Each natural person who exercises such privilege for any length of time in any calendar year beginning with the year as of the effective date of this Part, shall pay the tax in accordance with the provisions hereof; provided, the tax hereby levied shall not be imposed upon any natural person whose total income during the taxable year is less than twelve thousand (\$12,000.00) dollars. Also exempted from the imposition of tax hereby levied are any persons who have been declared as having a military service-connected permanent disability, and any person who serves as a member of an armed forces reserve unit and is called to active duty during the taxable year. A person seeking to claim an exemption from the tax levied herein may annually file an exemption certificate with the Borough and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of less than twelve thousand (\$12,000.00) dollars in the calendar year for which the exemption certificate is filed. The exemption certificate will be provided through the person's employer for the fiscal year for which the employee is requesting to be exempted from the tax hereby levied. (Ord. 1031, 10/15/2007, §3)

§404. Collection Through Employers.

1. Each employer shall register with the tax collector the employer's name, address and other information the tax collector may require within fifteen (15) days after the effective date of this Part or within fifteen (15) days after first becoming an employer.

2. For each taxpayer employed for any length of time after the effective date of this Part and on or before March 31 of the current tax year, each employer shall deduct that pro rata portion of the full tax from compensation payable to the taxpayer on the form prescribed by the tax collector and pay to the tax collector said amount deducted on or before April 30 of the current tax year. The tax shall be deducted and collected on a pro rata basis and paid to the tax collector on a quarterly basis. For each taxpayer for whom no prior deduction has been made, who is employed after the effective date of this Part and in any of the three (3) month periods ending June 30, September 30, and December 31 of the current tax year, each employer shall deduct that pro rata portion of the full tax from compensation payable to the taxpayer, file a return on a form prescribed by the tax collector, and pay said collector that portion of the full amount of the taxes deducted, on or before July 31, or October 31, of the current tax year, or January 31 of the following year, respectively.

3. Any employer who discontinues business or ceases operation before December 31 of any year during which this tax is in effect, shall file the return hereinabove required and pay the tax to the tax collector, within fifteen (15) days after discontinuing business or ceasing operations.

4. The failure of any employer to deduct the tax shall not relieve the employee from the duty to file a return and pay the tax. Any employer who fails to deduct the tax as required by this Section, or who fails to pay such tax to the tax collector, shall be liable for such tax in full, without deduction of the commission hereinafter provided, as though the tax had originally been levied against such employer.

5. As to employees who present official receipts evidencing prior payment of the tax imposed hereby either directly or by collection through employers, the employer shall not deduct the tax but shall maintain adequate records concerning such employees.

6. Each employer may deduct and retain a commission equal to two (2) percent of the total amount of tax collected through the employer pursuant to this Section, or on any delinquent amount collected and paid over to the tax collector.

(Ord. 1031, 10/15/2007, §4)

§405. Direct Payment Taxpayers. Every taxpayer who is self-employed or whose tax for any other reason is not collected under §404 of this Part shall file a return on a form prescribed by the tax collector and shall pay that portion of the full amount of the tax herein levied to said collector on a quarterly basis. Each taxpayer who first becomes subject to the tax after the effective date of this Part, and on or before March 31 of the current tax year, shall file a return and pay that portion of the full amount of the tax on or before April 30 of the current tax year, and shall file a return and pay the remaining portions of the full tax each following quarter of that tax year. Each such taxpayer who first becomes subject to the tax after March 31 of the current tax year, shall file a return and pay that portion of the full tax on or before July 31 of the current tax year, and on or before October 31 of the current tax year, and on or before January 31 of the following year, whichever of such payment dates first occurs at least thirty (30) days after the taxpayer becomes subject to the tax. (Ord. 1031, 10/15/2007, §5)

§406. Nonresident Taxpayers. Both residents and non resident taxpayers shall, by virtue of engaging in an occupation within the Borough, be subject to the tax and the provisions of this Part. (Ord. 1031, 10/15/2007, §6)

§407. Administration and Enforcement. The tax collector shall collect and receive the taxes, interest, fines and penalties imposed by this Part, and shall maintain records showing the amounts received and the dates such amounts were received. The tax collector shall prescribe and issue all forms necessary for the administration of the tax and may adopt and enforce regulations relating to any matter pertaining to the administration of this Part. The tax collector and/or agent designated by him/her may examine the records of any employer and/or supposed employer or of any taxpayer in order to ascertain the tax due or verify the accuracy of any return. Every employer or supposed employer and every taxpayer or supposed taxpayer shall give the tax collector and any agent designated by him/her all means, facilities and opportunity for the examinations hereby authorized. (Ord. 1031, 10/15/2007, §7)

§408. Collection. The tax collector shall by written notice and demand, and subsequently by suit if necessary, collect and recover the taxes, interest, costs and penalties due under this Part and unpaid. If for any reason any tax is not paid when due, interest at the rate of six (6) percent per year on the amount of the unpaid taxes, and an additional penalty of ten (10) percent on the amount due. Upon presentation of a written notice and demand for payment from the tax collector, the taxpayer or employer must pay or deduct and pay over to the tax collector within sixty (60) days from the

notice. Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection as well as for interest and penalties. The tax collector may accept payment under protest of the tax claim by the Borough in any case where any person disputes the claim for the tax. If a court of competent jurisdiction thereafter decides that there has been an overpayment to the taxpayer, the taxpayer shall refund the amount of the overpayment to the person who paid under protest. Any action instituted for such judicial determination shall be filed within two (2) years of the last day of the period for which the tax is disputed or claim made. All refunds shall be made in conformity with the procedure prescribed by the Borough Council. (Ord. 1031, 10/15/2007, §8)

§409. Penalties. Any employer or taxpayer who makes a false or untrue statement on any return required by this Part, who refuses inspection of his records in his custody or control setting forth his employee subject to this tax, who fails or refuses to file a return required by this Part, or who violates any other provisions of this Part, shall, upon conviction thereof, be sentenced to be pay a fine no more than three hundred (\$300.00) dollars, and/or to imprisonment for a term not to exceed ninety (90) days. (Ord. 1031, 10/15/2007, §9)

Part 5
Per Capita Tax

§501. Authority for Enactment. This Part is enacted under authority of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 53 P.S. §§6901 et seq. (1982) as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania. (Ord. 325, 2/20/1956; as amended by Ord. 504, 12/26/1973; and as revised by Ord. 675, 11/17/1986)

§502. "Resident" Defined. The word "resident" as used in this Part shall mean every adult eighteen (18) years or older who lives within the Borough. (Ord. 325, 2/20/1956; as revised by Ord. 675, 11/17/1986)

§503. Imposition of Tax. Every resident shall pay ten dollars (\$10.00) for the present calendar year and each year hereafter. (Ord. 325, 2/20/1956; as revised by Ord. 675, 11/17/ 1986; by Ord. 687, 11/16/1987; and by Ord. 944, 12/27/2001)

§504. Collection. All taxes, interests, costs and penalties imposed by this Part shall be collected by the Borough tax collector. (Ord. 325, 2/20/1956; as revised by Ord. 675, 11/17/1986)

Part 6
[Reserved]

Part 7
Tax Collector

§701. Tax Collector. The Borough Council of Emmaus hereby appoints the locally-elected Tax Collector as the Municipal Officer authorized to provide tax certifications upon request by the public, and hereby authorizes said Tax Collector to assess, collect and retain, as compensation for providing such service, such fee as is determined by resolution of Borough Council. (Ord. 742, 1/21/1991, \$1)

Part 8

Taxpayer Bill of Rights

§801. Definitions. For purposes of this Part, the terms "eligible tax" and "taxpayer" shall have the same meanings as provided in 53 Pa.C.S.A. §8422. (Ord. 879, 3/1/1999, §1)

§802. Disclosure Statement. The Borough Solicitor is hereby authorized and directed to prepare a disclosure statement in accordance with the provisions of 53 Pa.C.S.A. §8423(a) and this Part. All Borough employees and agents who contact any taxpayer (orally or in writing) regarding the assessment, audit, determination, review or collection of an eligible tax shall either:

A. Hand deliver or mail a copy of the disclosure statement to the taxpayer.

B. Give the notice set forth in 53 Pa.C.S.A. §8423(b) (orally or in writing, depending on the method of contacting the taxpayer).

(Ord. 879, 3/1/1999, §2)

§803. Requests for Information.

1. Response. A taxpayer must respond to a request for information (within the meaning of 53 Pa.C.S.A. §8424(a)) within thirty (30) calendar days after the date of the request, unless a longer period of time is specifically set forth in the request.

2. Verification. All responses to requests for information shall be accompanied by a statement that the information presented is true, correct, and complete to the best of the taxpayer's knowledge, information and belief, subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsifications to authorities).

3. Extensions. If a taxpayer believes that there is a good reason why he/she will be unable to respond to a request for information by the deadline (or by the end of any previously granted extension), he/she may request a reasonable extension. The request must be directed to the Borough Manager (or his/her delegate), and may be made either by phone, in writing, or in person to the Office of the Borough Manager. The Borough must receive the request no later than fifteen (15) calendar days before the deadline for the response (or, if later within five (5) calendar days after the taxpayer receives the request for information). The Borough Manager may grant a reasonable extension if he/she feels the taxpayer has a good reason for it. If the taxpayer is not satisfied with the decision of the Borough Manager, the taxpayer may appeal the decision to Borough Council by filing a petition for reconsideration under §804 of this Part.

4. Action Against Taxpayer. The Borough shall take no lawful action against a taxpayer for any tax and for any tax period for which a request for

information to the taxpayer is outstanding until the expiration of the applicable response period, including extensions.

(Ord. 879, 3/1/1999, §3)

§804. Administrative Appeals.

1. Petition for Reassessment. Any taxpayer who desires to challenge or dispute any assessment or determination by the Borough of an eligible tax against the taxpayer, and of any interest or penalties on an eligible tax, must file a written petition for reassessment with the Borough Council within ninety (90) days after the date the assessment notice was mailed to the taxpayer.

2. Petition for Refund. Any taxpayer who believes he/she overpaid any eligible tax and is entitled to a refund, may file a written petition for refund with the Borough Council. The petition must be filed no later than the following deadlines, even if the taxpayer has filed a request for a refund with the tax collector and not yet received a response:

A. If a return or report is required for the particular tax, the deadline is the later of:

(1) Three (3) years after the due date of the return or report (including extensions); or

(2) One (1) year after the actual payment of the tax.

B. If no return or report is required, the deadline is the later of

(1) Three (3) years after the due date for payment of the tax; or

(2) One (1) year after the actual payment of the tax.

3. Petition for Reconsideration. Any taxpayer who desires to appeal a decision of the Borough Manager denying or limiting the taxpayer's request for an extension of time to respond to a Borough request for tax information must file a written petition for reconsideration with the Borough Council within five (5) days after the date of the Borough Manager's decision.

4. Requirements for Petitions. A petition under this Section need not be in any particular form, but must include a concise statement of all the reasons supporting the application. A petition for reassessment or reconsideration must also include a copy of the assessment or decision being appealed. A petition is considered "filed" on the date it is delivered to the office of the Borough Manager, or the date that the letter/envelope transmitting it (and bearing sufficient postage) is postmarked by the United States Postal Service for delivery to the Office of the Borough Manager.

5. Review by Council. A petition under this Section shall be considered by Borough Council in executive session. Borough Council shall not conduct a formal hearing, and no stenographic or other record shall be made of the

executive session. The process shall be a "review and decision" under 53 Pa.C.S.A. §8430(2) and not a "hearing and decision." However, the taxpayer shall be given the opportunity, personally or through counsel, to present relevant, nonrepetitious evidence, without regard to formal rules of evidence, and to present argument in support of the taxpayer's position. Borough officers, employees, or agents may also present evidence and argument in support of the assessment or decision, or in opposition to the relief requested. Cross-examination shall only be permitted in the discretion of Borough Council.

6. Decision. Borough Council shall render a decision on a petition and mail a written decision to the taxpayer within sixty (60) calendar days after the date a complete and accurate Petition is received by the Borough. The decision need not contain any findings of fact or conclusions of law. If Borough Council fails to act within that time, the Petition shall be deemed approved.

(Ord. 879, 3/1/1999, §4)

§805. Compliance with the Act. All Borough officers, agents and employees who have any responsibility for the audit, assessment, determination or administration of an eligible tax, including persons having any contact with taxpayers in that regard, shall familiarize themselves with the requirements of the Local Taxpayers Bill of Rights Act, 53 Pa.C.S.A. §§8421-8438 and this Part, and shall comply with them at all times.

(Ord. 879, 3/1/1999, §5)

BOROUGH OF EMMAUS
TAXPAYER BILL OF RIGHTS DISCLOSURE STATEMENT

Under the Local Taxpayers Bill of Rights Act, 53 Pa.C.S.A. §§8421-8435, you have a number of rights in connection with the assessment audit, determination, review or collection of any "eligible tax" by the Borough of Emmaus, including earned income tax, business privilege tax, occupational privilege tax, and per capita tax (but not including the real property tax):

Requests for Information

You have 30 calendar days to respond to any request for information by the Borough. The time starts to run on the mailing date of the request, not the date you receive the request. However, if there is a good reason why you will be unable to respond within 30 days (or by the end of any previously granted extension), you may request a reasonable extension. To obtain an extension, you must call (610-965-9292) or write (28 S. 4th Street, Emmaus, PA 18049) the Borough Manager as soon as possible. The Borough must receive your request for an extension no later than 15 days before the deadline for your response, or, if later, 5 days after you receive the Borough's request for information. The Borough Manager may grant a reasonable extension if she feels you have a good reason for it. If you are not satisfied with the Borough Manager's decision, you may appeal to the Borough Council. The Borough will not take any action against you for the tax years in question until after the response period expires, including extensions.

The Borough will not request information for any tax required to be paid, or any tax return to be filed, more than 3 years before the mailing date of the notice, unless either (A) the Borough has reason to believe that you failed to file a return or pay a tax due more than 3 years before the date of the notice, or (B) after an initial request for information, the Borough determines that you failed to file a return, under reported income, or failed to pay a tax for one or more period covered by the initial request. The Borough will not request copies of your Federal individual income tax return unless the information is not available from other available sources (including the Pennsylvania Department of Revenue) and is reasonably necessary to collect or enforce the tax.

All responses to requests for information shall be accompanied by a statement that the information presented is true, correct and complete to the best of your knowledge, information and belief, subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

If you do not respond to a request for information by the deadline (including extensions), or do not provide all information requested, the Borough may estimate and assess the taxes due based on any information available to it.

Notice of Underpayment; Penalties and Interest

If the Borough determines that you have underpaid any eligible tax, tax, the Borough will send you a written notice that states:

- (1) The tax period(s) for which there is an underpayment and the amount of underpayment for each tax period.
- (2) An itemization of the revisions made by the Borough to the return(s) or report(s) filed by you, which result in the determination that there is an underpayment.
- (3) Any applicable interest or penalties and the manner in which they are calculated.
- (4) The legal basis for the determination.

This notice is also known as an "assessment." If you believe an assessment is wrong and wish to challenge it, you may file a timely petition for reassessment under the procedures described in the Administrative Appeals section below. Otherwise, you will lose the rights to dispute the assessment and the Borough will proceed to collect the tax, interest and/or penalties assessed.

Erroneous Advice by the Borough

If any Borough official or agent acting in his/her official capacity gives you any written advice in response to a specific written request from you, and you reasonably rely on that advice, but it turns out that the advice was wrong and that you owe additional tax, the Borough will not collect any penalty or interest from you on that additional tax unless it results from your failure to provide adequate or accurate information. *The Borough is not required to provide any written advice to taxpayers.*

Requests for Refunds

If you believe that you overpaid any eligible tax, you may file a written request for a refund or credit, addressed to 28 S. 4th Street, Emmaus, PA 18049. (If your show an overpayment on a tax return, we will consider that a request for a cash refund unless you state otherwise on the return.) The request must be filed no later than the following deadlines:

- (1) If a return or report is required for the particular tax, the deadline is the later of (A) 3 years after the due date of the return or report (including extensions), or (B) 1 year after actual payment of the tax.
- (2) If no return or report is required, the deadline is the later of (A) 3 years after the due date for payment of the tax, or (B) 1 year after actual payment of the tax.
- (3) If you paid the tax because you received a notice from the Borough telling you that you owe the tax, the deadline is 1 year after the date of payment.

A "request" for a refund is handled by the tax collector, who will ordinarily respond within 30 days. However, you are not required to file a "request," and may file a "petition" for a refund directly to the Borough Council under the procedures described in the Administrative Appeals section below. Even if you file a "request" with the tax collector, and have yet

received a response, you must file any "petition" to the Borough Council within the time limits for petitions.

If you receive and cash a refund check from the Borough for an eligible tax, you may still file a timely request or petition for an additional refund if you believe you are entitled to it.

Interest on Overpayments

If you overpay any eligible tax and the Borough does not refund the overpayment or apply it to other tax, interest or penalty owed to the Borough within 75 days after the due date of the tax return or report (or, if later, within 75 days after you file the return or report), you are entitled to simple interest on the overpayment from the "date of overpayment" to the "date of resolution," as defined in the Act. You are not entitled to any interest on overpayments of interest or penalties.

Administrative Appeals

If you wish to challenge or dispute any assessment or determination of tax, interest or penalties by the Borough, you must file a written petition for reassessment with the Borough Council within 90 days after the date the assessment notice was mailed to you.

If you believe you have overpaid any eligible tax and are entitled to a refund, you may file a written petition for refund with the Borough Council. The petition must be filed no later than the following deadlines, even if you have filed a "request" for refund with the tax collector and have not yet received a response:

- (1) If a return or report is required for the particular tax, the deadline is the later of (A) 3 years after the due date of the return or report (including extensions), or (B) 1 year after actual payment of the tax.
- (2) If no return or report is required, the deadline is the later of (A) 3 years after the due date for payment of the tax, or (B) 1 year after actual payment of the tax.

If you wish to appeal a decision of the Borough Manager denying or limiting your request for an extension of time to respond to a Borough request for tax information, you may file a written petition for reconsideration with the Borough Council within 5 days after the date of the decision.

The petition need not be in any particular form, but must include a concise statement of all the reasons supporting the application. A petition for reassessment or reconsideration shall also include a copy of the assessment or decision being appealed. A petition is considered "filed" on the date it is hand delivered to the Office of the Borough Manager, 28 S. 4th Street, Emmaus, PA 18049, of the date that the letter/envelope transmitting it (and bearing sufficient postage) is postmarked by the United States Postal Service for delivery to that address.

A petition shall be considered by the Borough Council in executive session. Borough Council shall not conduct a formal hearing, and no stenographic or other record shall be made of the executive session. The process shall be a "review and decision" under 53 Pa.C.S.A. §8430(2) and not a "hearing and decision." However, you may personally, or through counsel, present relevant, nonrepetitious evidence to the Borough Council, without regard to formal rules of evidence, and shall be given the opportunity to present argument in support of your position. Borough officials or agents may also present evidence and argument in support of their assessment or decision, or in opposition to the relief requested. Cross-examination shall only be permitted in the discretion of Council.

Borough Council shall render a decision on a petition and mail a written decision to you within 60 days after the date of complete and accurate petition is received by the Borough. The decision need not contain any findings of fact or conclusions of law. If Council fails to act within that time, the petition shall be deemed approved.

Appeals to Court

If you are not satisfied with the decision of Borough Council on any petition, you may appeal that decision to the Lehigh County Court of Common Pleas within 30 days after the date the decision was mailed to you. You must comply with all of the rules of court for filing such an appeal, and so you should consult an attorney. You will be entitled to a hearing on the matter before the Court. However, you may only appeal those matters which you presented in your petition, and you may not appeal to court if you did not file a timely and complete petition to the Borough Council.

Enforcement Procedures

If you fail to pay eligible taxes assessed against you, plus interest and penalties, the Borough may bring a civil action against you before the local district justice or the Lehigh County Court of Common Pleas. If the Borough obtains a judgment against you in this action, the Borough may cause the Sheriff to sell your real or personal property to pay the judgment. The judgment may also become a lien on your real property. The Borough may also collect the taxes from your employer by garnishing a portion of your wages.

You should also be aware that it is a crime to fail, neglect or refuse to file required returns or reports, to file false or fraudulent returns or reports, and to refuse to permit the tax collector to examine your books, records and papers. The Borough may prosecute you for these crimes before the district justice.

Confidentiality

All information obtained by the Borough as a result of any audit, return, report, investigation, hearing or verification is confidential tax information. Except for official purposes or as provided by law, it is unlawful for the Borough or its officers, employees and agents to: (A) divulge or make known any such information to any person; (B) permit any such information or any work containing abstract or particulars of such information to be seen or examined by any person; or (C) print, publish or make known in any manner any such information.

Part 9

Installment Payment of Real Estate Taxes

§901. Installment Payment of Real Estate Taxes. Real estate taxes levied against a resident in the Borough of Emmaus shall be due and payable to the tax collector as follows:

A. Real estate taxes pertaining to a calendar year, beginning with 2009, shall be due and payable, either in full or by installment payments in the manner set forth herein.

B. In the event that a resident taxpayer desires to pay his or her real estate taxes on an installment basis, the first such payment without any discount will be due on or before May 31 of the calendar year; with the second payment without any discount being due on or before July 31 of the calendar year; and the third payment without any discount shall be due on or before September 30 of the calendar year.

C. Only homesteads are eligible to make installment payments.

D. Should a resident taxpayer fail to make an installment payment by the designated date as set forth herein, a penalty of ten (10) percent shall be added to the payment that is due and owing, which shall then be collected by the tax collector.

E. Should a resident taxpayer fail to pay on the installment basis on the first date provided herein, his or her taxes shall become due and payable in full and shall be collected as provided by law, subject to any discounts and penalties provided under the law.

The provisions of this Part shall become effective on and be applicable to the Borough of Emmaus real estate tax levied by the Borough Council beginning with the calendar year 2009, and continuing each year thereafter.

(Ord. 1043, 12/15/2008)

Part 10

Business Privilege Tax

§1001. Definitions.

BOROUGH - Borough of Emmaus.

BUSINESS - engaging in any manner of commerce for gain or profit, or engaging in any occupation, trade, profession, business, vocation or commercial activity for gain or profit. An entity that is registered under the Internal Revenue Code as a Section 501(c)(3) nonprofit corporation and any local, State, or Federal government or any agency thereof shall not be considered a business for the purposes of this Part.

TAX COLLECTOR - the Tax Collector elected to serve the Borough of Emmaus.

(Ord. 1064, 1/4/2010, §I)

§1002. Determination of Applicability of Business Privilege Tax. Any business, person, partnership, corporation, or other legally recognized entity that advertises an address or telephone number located in the Borough or which maintains a place of business within the Borough, whether such business is at a fixed commercial location, or is a home-based business or occupation, shall be deemed to be doing business within the Borough for the purposes of this Part, but any person or entity that believes that it is not so engaged may appeal to the Borough Council for a determination of its status. A temporary, seasonal, or itinerant business shall not be responsible for paying the business privilege tax. (Ord. 1064, 1/4/2010, §II)

§1003. Imposition of Tax. For the tax year beginning January 1, 2010, and each year thereafter, every entity that is doing business in the Borough of Emmaus shall be responsible to pay a business privilege tax as set forth in this Part, and shall follow all registration requirements as set forth in this Part. (Ord. 1064, 1/4/2010, §III)

§1004. Registration Required.

1. Every business, as defined herein, shall complete a registration form in the form as prepared by the Borough, and shall file the form in the Office of the Borough Manager. A business need only complete one form, which form shall remain on file in the Office of the Borough Manager, and need not be renewed on an annual or any other basis. The business shall notify the Borough if it changes its address within the Borough or moves out of the Borough.

2. If the Borough Council learns of any entity doing business in the Borough without having registered as required by this Section, it shall forward the name and address of the entity to the Tax Collector, who shall add the business to the database of businesses in the Borough, and shall ascertain and collect such business privilege tax that should have been paid.

3. If the Tax Collector learns of any entity doing business within the Borough without having registered with the Tax Collector, then the Tax Collector shall transmit the name and address of the entity to the Borough Council, which shall direct the Tax Collector to add the business to the database of businesses in the Borough.

(Ord. 1064, 1/4/2010, §IV)

§1005. Amount; Time of Payment.

1. Every entity engaging in a business that makes such entity obligated to pay the business privilege tax shall pay the tax for the tax year beginning January 1, 2010, and each year thereafter in the amount of one hundred fifty dollars (\$150.00). The business privilege tax shall be due on or before April 1 of each calendar year, and bills for the tax shall be mailed by the Tax Collector to the taxpayer at least sixty (60) days to pay the tax before the due date.

2. If a business opens or otherwise begins operating during a calendar year, the business shall not be obligated to pay a business privilege tax for the calendar year in which it commenced operations, but shall be obligated to pay the tax for the next calendar year and every year thereafter.

(Ord. 1064, 1/4/2010, §V)

§1006. Powers and Duties of Tax Collector.

1. The Tax Collector shall collect and receive the taxes, fines, and penalties imposed by this Part. The Tax Collector shall keep records of all amounts received from each person paying the tax, including the date of such receipt.

2. If the Tax Collector is not satisfied with the return and payment of tax made by any taxpayer under the provisions of this Part, the Tax Collector is authorized to and empowered to make a determination of the tax due based upon the facts contained in the return or upon any information in the Tax Collector's possession or that shall come into the Tax Collector's possession, and for this purpose the Tax Collector is authorized to examine the books, papers and records of any such person to verify the accuracy of any return or payment made under the provisions thereof or to ascertain whether the taxes imposed by this Part have been paid. The Tax Collector is hereby authorized and directed to make and keep such records, prepare such forms, make such regulations and take such other measures as may be necessary or convenient to carry this Part into effect. For such services, the Tax Collector shall receive a fee of three (3) percent of the taxes collected.

3. If any taxpayer or supposed taxpayer shall neglect or refuse to make any return and payment of tax by the due date stated herein, or if, as a result of an investigation by the Tax Collector, a return is found to be incorrect, the Tax Collector shall estimate the tax due by such entity and determine the amount due for taxes, penalties and interest thereon.

(Ord. 1064, 1/4/2010, §VI)

§1007. Collection; Interest; Nonpayment of Tax.

1. All taxes due and unpaid under this Part shall be collected by the Tax Collector as other delinquent personal taxes are now collected.

2. All taxes due under this Part shall bear interest at the rate of one (1) per centum per month or fractional part of a month, from the day they are due and payable until paid. If any taxpayer shall neglect or refuse to make any return or payment by the due date as herein required, an additional ten (10) per centum of the amount of the tax shall be added by the Tax Collector and collected pursuant to this Part.

(Ord. 1064, 1/4/2010, §VII)

§1008. Disposition of Funds. All taxes, interest, and penalties collected or received under the provisions of this Part shall be paid into the treasury for the Borough for the use of the Borough as it sees fit.

(Ord. 1064, 1/4/2010, §VIII)

§1009. Violations and Penalties. Any person, entity, business, profession or anyone else who is obligated to pay the business privilege tax pursuant to this Part, or any officer, agent, or employee thereof who shall fail, neglect, or refuse to comply with any of the terms or provisions of this Part or any regulation or requirement made pursuant thereto and authorized thereby shall, upon conviction thereof, be punishable by a fine of not more than three hundred dollars (\$300.00) and pay the costs of prosecution for each offense, to be collected as other fines and costs are by law collectible. Any fine imposed by this Section shall be in addition to any other penalty imposed by any other section of this Part. (Ord. 1064, 1/4/2010, §IX)

