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**PART I****PER CAPITA TAX****SECTION 24-101. Tax Imposed**

Each resident or inhabitant over twenty-one (21) years of age in the Borough of Harmony shall annually pay for the use of the Borough of Harmony a per capita tax of Ten (\$10.00) Dollars. Every husband against whose wife a per capita tax is levied shall be liable for the payment of such tax. Collection thereof from such husband may be had and enforced in the manner provided by law for the collection and enforcement of payment of said taxes owing by such husband, including the collection thereof from the husband's employer.

*(Ord. 197, 02/07/1961, §1)*

**SECTION 24-102. List of Taxpayers**

The duly elected assessor and the Borough of Harmony shall annually propose a list of residents or inhabitants of the Borough of Harmony over twenty-one (21) years of age, and return the same with the other taxable property as provided by law. Such list of residents or inhabitants shall be included and certified in the list of taxable property to be certified to the Council of the Borough of Harmony.

*(Ord. 197, 02/07/1961, §2)*

**SECTION 24-103. Term of Levy**

This tax is levied and assessed on an annual basis by inclusion in the annual tax levy ordinance of the Borough.

*(Ord. 197, 02/07/1961, §3)*

**SECTION 24-104. Collection**

The assessment, collections, exonerations notices reports of omitted names, liability of husband for wife's tax, collection from employer, collector, penalty for refusal or failure to pay the tax and compensation of collector shall all be as provided in the local tax collection law of 1945, May 25, (P.L. 1050) as amended. It is the intent and purpose of the Ordinance that the collection and enforcement of this tax shall be subject to and controlled by all of the provisions of the aforesaid "Local Tax Collection Law" as are other taxes.

*(Ord. 197, 02/07/1961, §4)*

**SECTION 24-105. Purpose**

Said tax is levied for general revenue purposes under the authority of the Act of General Assembly of June 25, 1947 (P.L. 1145) as amended.

*(Ord. 197, 02/07/1961, §5)*

**SECTION 24-106. Severability**

If any section, sentence or part of this Ordinance if for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not effect or impair any or the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared to be the intent of the Council of the Borough of Harmony that this Ordinance would have been enacted had such unconstitutional, illegal or invalid sentences, clauses, sections, or parts thereof not been included hereby.

*(Ord. 197, 02/07/1961, §9)*

**PART II****EARNED INCOME TAX****SECTION 24-201. Title**

This ordinance is enacted pursuant to the authority granted by the General Assembly of the Commonwealth of Pennsylvania in Act No. 511 of 1965 effective Jan. 1, 1966 (known as the Local Tax Enabling Act) and shall be known as the Earned Income Tax Ordinance. The provisions hereof shall become effective on the 1<sup>st</sup> day of January, 1967.

*(Ord. 213, 02/07/1967, §1)*

**SECTION 24-202. Incorporation of Statute**

The provisions of Section 13 of the Local Tax Enabling Act (Act No. 511 of 1965) are incorporated herein by reference, except that where options are provided in said Section 13, this ordinance designates the option selected, and except as and where hereinafter specifically provided otherwise.

*(Ord. 213, 02/07/1967, §2)*

**SECTION 24-203. Imposition of Tax**

A tax for general revenue purposes in the amount of one (1%) per cent is hereby imposed on earned income and net profits earned by residents and non-residents of the Borough of Harmony during the taxable year beginning on the first day of January, 1967, and continuing for each taxable year thereafter.

*(Ord. 213, 02/07/1967, §3)*

**SECTION 24-204. Declaration, Return and Payment of Tax****A. Net Profits**

1. Every tax payer making net profits in 1967 or in any year succeeding 1967 shall file a declaration of his estimated net profits for the current year and shall pay the tax due thereon in quarterly installments, and shall file a final return and pay to the officer the balance of the tax due, all as provided in Section 13, III, A. (1), of the Local Tax Enabling Act.

**B. Earned Income**

1. For the year 1967 and all years succeeding the year 1967, every tax payer shall make and file final returns and pay the taxes due, all as provided in Section 13, III, B, first paragraph, of the Local tax Enabling Act.

2. Quarterly Returns. Every tax payer 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 make and file with the officer quarterly returns and shall pay quarter-annually the amount of tax shown as due on such returns, all as provided in Section 13, III, B, (2), of the Local Tax Enabling Act, and the amount of tax shown as due thereon shall be paid at the time of filing the return.

(Ord. 213, 02/07/1967, §4)

#### **SECTION 24-205. Collection at Source**

A. Every employer having an office factory, workshop branch, warehouse or other place of business within the Borough of Harmony warehouse or other place of business within the Borough of Harmony shall deduct the tax imposed by this ordinance on the earned income due to his employee or employees and shall file quarterly returns and final returns and pay quarterly to the officer the amount of taxes deducted, all as set forth in Section 13, IV, of said "The Local Tax Enabling Act"; except that;

1. On or before February 28, 1967, every employer shall file with the officer:

a. 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, 1966, and ending Dec. 31, 1966.

b. A return withholding statement for each employee employed during all or any part of the period beginning January 1, 1966 and ending December 31, 1966, 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 (2) copies of the individual return to the employee for whom it is filed.

B. Every employer who discontinues business prior to December 31, 1966 shall, within thirty (30) days after discontinuance of business, file returns and withholding statements hereinabove required and pay the tax due.

C. No employer shall be required to register, deduct taxes, file returns or pay taxes in the case of domestic servants.

(Ord. 213, 02/07/1967, §5)

**SECTION 24-206. Administration**

The income tax officer or officers shall be selected from time to time by resolution of, and shall receive such compensation for his or their services and expenses as determined from time to time by the Borough Council of the Borough of Harmony. Such officer or officers shall have the powers and duties, and be subject to the penalties, provided in “The Local Tax Enabling Act.”

*(Ord. 213, 02/07/1967, §6)*

**SECTION 24-207. Applicability**

The tax imposed in section III of this ordinance shall not be levied on the net profits of any person, institution, or organization as to whom it is beyond the power of the Borough of Harmony to impose said tax under the constitution of the United State of America or the Constitution and laws of the Commonwealth of Pennsylvania.

*(Ord. 213, 02/07/1967, §7)*

**SECTION 24-208. Severability**

The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional, illegal, or invalid, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Borough Council of the Borough of Harmony that this ordinance would have been adopted had such unconstitutional, illegal or invalid part not been included herein.

*(Ord. 213, 02/07/1967, §8)*

**PART 3****EMERGENCY AND MUNICIPAL SERVICES TAX****SECTION 24-301. Definitions**

As used in this article, unless the context indicates clearly a different meaning, the following words shall have the meanings set forth below.

- A. **BOROUGH** – The Borough of Harmony, Butler County, Pennsylvania.
- B. **COLLECTOR** – The earned income tax officer of the Borough of Harmony.
- C. **COMPENSATION** – Salaries, wages, commissions, tips, bonuses, fees, gross receipts or any other earned income.
- D. **EMPLOYER** – Any livelihood, job, trade profession, business or enterprise of any kind, including services, domestic or other, for which any compensation is received.
- E. **TAX** – The tax imposed by this Chapter and Part.
- F. **TAXPAYER** – Any natural person liable for the tax levied by this Chapter and Part.

*(Ord. 371, 12/30/2004, §1)*

**SECTION 24-302. Tax Levy**

For revenues needed to provide police, fire and emergency services or for road construction and/or maintenance, a tax is hereby levied upon the privilege of engaging an occupation within the Borough, from the effective date of this Chapter and Part. Each natural person who exercises such privilege for any length of time and earned over \$1,000 shall pay tax in the amount of \$52.00 in accordance with the provisions of this Chapter and Part. Any person whose total income from all sources is less than \$5,000 per annum is hereby exempt from the payment of Emergency and Municipal Services Tax.

*(Ord. 371, 12/30/2004, §2)*

**SECTION 24-303. Collection Through Employers**

A. Every employer not registered under the earned income tax ordinance provisions or under this provision of emergency and municipal services tax ordinance (and the former occupational privilege tax ordinance) of the Borough shall, within fifteen (15) days after the effective date of this section or within fifteen (15) days after first becoming an employer, register

with the Collector the employer's name, address and such other information as the Collector may require.

B. For each taxpayer earning over \$1,000 for the year and employed for any length of time on or before March 31 each employer shall deduct the tax from compensation payable to the taxpayer, file a return on the form prescribed by the Collector and pay the Collector \$52.00. Thereafter, as to each taxpayer for whom no prior deduction has been made, who is employed for any length of time in any of the three-month periods ending June 30, September 30 and December 31, each employer shall deduct the tax from any compensation payable to the taxpayer, file a return on a form prescribed by the Collector and pay to the Collector the full amount of all taxes deducted for each such three-month period on or before July 31, October 31 and January 31, respectively. No tax shall be deducted from employees who earn less than \$1,000.

C. Any employer who discontinues business or ceases operation before December 31 shall within fifteen (15) days after discontinuing business or ceasing operation, file the return hereinabove required and pay to the Collector.

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

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

F. Each employer may deduct and retain a fee equal to two percent (2%) of the total amount of tax collected through the employer pursuant to this section.

*(Ord. 371, 12/30/2004, §3)*

#### **SECTION 24-304. Direct Payment by Taxpayers**

Each taxpayer who is self-employed or whose tax for any other reason is not collected under 24-303 shall file a return on a form prescribed by the Collector and shall pay the tax directly to the Collector. Each such taxpayer who first becomes subject to the tax on or before March 31 shall file the return and pay the tax quarterly and each such taxpayer who first becomes subject to the tax after March 31 shall file the return and pay the tax quarterly thereafter on or before July 31, October 31 and January 31 whichever of such payment dates first occurs at least thirty (30) days after the taxpayer first becomes subject to the tax.

*(Ord. 371, 12/30/2004, §4)*

**SECTION 24-305. Nonresident Taxpayers**

Both resident and nonresident taxpayers shall, by virtue of engaging in an occupation within the Borough, be subject to the tax and the provisions of this article.

*(Ord. 371, 12/30/2004, §5)*

**SECTION 24-306. Duties of Collector**

The Collector, on behalf of the Borough, shall collect and receive the taxes, interest, fines and penalties imposed by this article and shall maintain records showing the amounts received and the dates such amounts were received. The 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 article, including but not limited to requirements for deductions, requirements for evidence and records and provision for the examination and correction of returns. The Collector and agents designated by him may examine the records of any employer or supposed employer or of any taxpayer or supposed 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 Collector and any agent designated by him the means, facilities and opportunity for the examinations hereby authorized.

*(Ord. 371, 12/30/2004, §6)*

**SECTION 24-307. Collection**

The Collector shall collect, by suit or otherwise, all taxes, interest, costs, fines and penalties due under this article and unpaid. If for any reason, any tax is not paid when due, interest at the rate of six percent (6%) per year of the amount of unpaid tax and an additional penalty of one-half (1/2) of one percent (1%) of the amount of unpaid tax, for each month or fraction of a month during which the tax remains unpaid, shall be added and collected. Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection, including attorneys' fees, as well as for interest and penalties. The Collector may accept payment under protest of the tax claimed by the Borough in any case where any person disputes the Borough's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the Collector, the Collector shall refund the amount of the overpayment to the person who paid under protest.

*(Ord. 371, 12/30/2004, §7)*

**SECTION 24-308. Applicability; Severability**

The tax shall not apply to any subject of tax or person not within the taxing power of the Borough under the Constitution of the United States and the laws and Constitution of the

Commonwealth of Pennsylvania. If a final decision of a court of competent jurisdiction holds any provision of this Chapter and Part of the application of any provision to any circumstances to be illegal or unconstitutional, the other provisions of this Chapter and Part, or the application of such provision to other circumstances, shall remain in full force and effect. The intention of Council that the provisions of this Chapter and Part shall be severable and that this Chapter and Part would have been adopted if any such illegal or unconstitutional provisions had not been included.

*(Ord. 371, 12/30/2004, §8)*

#### **SECTION 24-309. When Effective**

The Chapter and Part shall become effective on January 1, 2005, and in accordance with Act 511 and other applicable law shall remain in effect thereafter.

*(Ord. 371, 12/30/2004, §9, Ord. 372, 6/6/2006)*

#### **SECTION 24-310. Violations and Penalties**

Any person who violates any provision of this Chapter and Part or any regulation adopted pursuant to it shall, upon conviction thereof, be fined not more than \$300 and, in default of payment thereof, shall be imprisoned for not more than thirty (30) days.

*(Ord. 371, 12/30/2004, §10)*

**PART IV****REALTY TRANSFER TAX****SECTION 24-401. Short Title**

This Ordinance shall be known as the “Realty Transfer Tax Ordinance of the Borough of Harmony.

(*Ord. 297, 12/02/1986, §1*)

**SECTION 24-402. Authority**

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

(*Ord. 297, 12/02/1986, §2*)

**SECTION 24-403. Definitions**

A. Association shall mean 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.

B. Corporation shall mean a corporation, joint-stock organization, 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.

C. Document shall mean any deed, instrument, or writing which conveys, transfers, demises, vests, confirms, or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust, or other instrument or 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 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 Section 8 of this Ordinance.

D. Family Farm Corporation shall mean a corporation of which at least seventy-five percent of its assets are devoted to the business of agriculture and at least seventy-five percent of

each class of stock of the corporation is continuously owned by members of the same family.  
The business agriculture shall not be deemed to include:

1. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition, or racing;
2. 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;
3. Fur farming;
4. Stockyard and slaughterhouse operations; or,
5. Manufacturing or processing operations of any kind

E. Governing Body shall mean the Borough of Harmony, Butler County, Pennsylvania.

F. Members of the same Family shall mean 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.

G. Person shall mean 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.

H. Real Estate shall mean the following:

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

I. Real Estate Company means a corporation or association which is primarily engaged in the business of holding, selling, or leasing real estate, ninety percent or more of the ownership interest in which is held by thirty-five or fewer persons, and which:

1. Derives sixty percent or more of its annual gross receipts from the ownership or disposition of real estate; or,

2. Holds real estate, the value of which comprises ninety percent 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.

J. Title to Real Estate shall mean:

1. 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,

2. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate, or perpetual leasehold, including without limitation a leasehold interest or possessory interest under a lease or occupancy agreement for a term of thirty years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

K. Transaction means the making, executing, delivering, accepting, or presenting for recording of a document.

L. Value shall mean:

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

2. 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;

3. In the case of an easement or other interest in real estate, the value of which is not determinable under clause (1) or (2), the actual monetary worth of such interest; or,

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

(Ord. 297, 12/02/1986, §3)

#### **SECTION 24-404. Imposition of Tax; Interest**

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

B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder or other designee whereon the date of the payment of the tax, the amount of the tax, and the signature of the collecting agent shall be set forth.

C. It is the intent of this Ordinance 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 a tax on the same person or transfer then the tax levied by the Borough of Harmony under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate and such one-half rate shall become effective without any action on the part of the Borough of Harmony; provided, however, that the Borough of Harmony 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 one-half of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under "The Local Tax Enabling Act".

D. 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. 297, 12/02/1986, §4)

#### **SECTION 24-405. 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 Article. The

exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

(*Ord. 297, 12/02/1986, §5*)

#### **SECTION 24-406. Excluded Transactions**

The tax imposed by Section 4 shall not be imposed upon:

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

B. A document which the Borough of Harmony 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 of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by covenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

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

G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative or 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 Article. 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 Article.

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

N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt or 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 person 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 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 due 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 Ordinance Resolution.

*(Ord. 297, 12/02/1986, §6)*

#### **SECTION 24-407. Documents Relating to Associations or Corporations and Member, Partners, Stockholders, or Shareholders Thereof**

Except as otherwise provided in Section 6, 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 Article, corporations and associations are entities separate from their members, partners, stockholders, or shareholders.

*(Ord. 297, 12/02/1986, §7)*

#### **SECTION 24-408. Acquired Company**

A. A real estate company is an acquired company upon a change in the ownership interest in the company, however affected, 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 or more of the total ownership interest in the company within a period of three years.

B. 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 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 Ordinance.

C. Within thirty 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. 297, 12/02/1986, §8)*

#### **SECTION 24-409. Credits Against Tax**

A. 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.

B. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

C. 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.

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

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

*(Ord. 297, 12/02/1986, §9)*

**SECTION 24-410. 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. 297, 12/02/1986, §10)*

**SECTION 24-411. Proceeds of Judicial Sale**

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

*(Ord. 297, 12/02/1986, §11)*

**SECTION 24-412. Duties of Recorder of Deeds**

A. As provided in 16 P.S. § 11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the recorder of deeds shall be the collection agent for the local realty transfer tax, including any amount payable to the Borough of Harmony based on redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Borough of Harmony.

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

C. On or before the tenth of each month, the recorder shall pay over to the Borough of Harmony all local realty transfer taxes collected, less two percent for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The two percent commission shall be paid to the county.

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

(*Ord. 297, 12/02/1986, §12*)

### **SECTION 24-413. 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 Article. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this Subsection 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 Ordinance.

(*Ord. 297, 12/02/1986, §13*)

### **SECTION 24-414. Civil Penalties**

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

B. In the case of failure to record a declaration required under this Chapter and 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 of the amount of such tax if the failure is for not more than one month, with an additional five percent for each additional month of fraction thereof during which such failure continues, not exceeding fifty percent in the aggregate.

(*Ord. 297, 12/02/1986, §14, Ord. 372, 6/6/2006*)

### **SECTION 24-415. Lien**

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

Part said lien to begin at the time when the tax under this Chapter and Part is due and payable, and continue until discharge by payment, or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Butler 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. 297, 12/02/1986, §15, Ord. 372, 6/6/2006*)

#### **SECTION 24-416. Enforcement**

All taxes imposed by this Chapter and Part together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

(*Ord. 297, 12/02/1986, §16, Ord. 372, 6/6/2006*)

#### **SECTION 24-417. Regulations**

The Recorder of Deeds of the County of Butler, Pennsylvania, 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 Chapter and Part.

(*Ord. 297, 12/02/1986, §17, Ord. 372, 6/6/2006*)

#### **SECTION 24-418. Severability**

Should any Section, Subsection, sentence, clause, or phrase of this Chapter and Part be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the Chapter and Part in its entirety or of any part thereof other than that declared to be invalid.

(*Ord. 297, 12/02/1986, §18 Ord. 372, 6/6/2006*)