

CHAPTER 24 TAXATION, SPECIAL

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Part 1 – Earned Income and Net Profits

§101. Imposition of Tax.

A tax for general revenue purposes of one percent (1%) is hereby imposed during each calendar year without annual reenactment, unless the rate of tax is subsequently changed, on:

- A. Earned income received by residents of the Township of Sewickley;
- B. Earned income received by nonresidents for work done or services performed or rendered in the Township of Sewickley;
- C. The net profits earned by residents of the Township of Sewickley; and,
- D. The net profits earned from the operation of businesses, professions or other activity, except as corporations, conducted in the said Township by nonresidents of the Township of Sewickley.

§102. Section 13 of Local Tax Enabling Act Incorporated by Reference, with Certain Options.

Section 13 of the Local Tax Enabling Act of 1965, P.L. 1257, is hereby incorporated by reference into and made a part of this Part 1, to the same extent as if the full text of the said section had been set out verbatim in this Part, except that:

- A. In the case of net profits, the Township elects to operate under the option set forth in Subsection III-A(1)(ii), requiring an annual declaration of net profits and quarterly payments thereof, rather than annual payments of the tax due on net profits for the preceding year, as provided in Subsection III-A(1)(i).
- B. In the case of earned income not subject to withholding the Township elects to operate under the option set forth in Subsection III-B(2) requiring quarterly returns and quarterly

payments, rather than the option set forth in Subsection III-B(1) requiring an annual return and payment of the tax for the preceding year.

§103. Income Tax Officer.

The Board of Township Supervisors 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 Township Secretary.

§104. Authority for Enactment.

This Part I is enacted under the authority of the Local Tax Enabling Act, Act 511 of 1965, December 31, F.L. 1257, as amended.

Part 2 – Local Services Tax

§201. Title.

This part shall be known and may be cited as the Township of Sewickley Local Services Tax Ordinance

§202. Authority.

This Part is enacted under the authority of the Local Tax Enabling Act, as amended by Act No.7 of 2007.

§203. Purpose.

The purpose of this Part is to provide revenue for police, fire and emergency services; road construction and maintenance; the reduction of property taxes and for such other purposes as may be specified for such tax from time to time by the laws of the Commonwealth of Pennsylvania.

§204. Definitions.

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

- A. COLLECTOR – The person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.
- B. DCED – The Department of Community and Economic Development of the Commonwealth of Pennsylvania.
- C. EARNED INCOME – “Compensation” as determined under section 303 of the Act of March 4, 1971 (P.L. 6, No.2), known as the “Tax Reform Code of 1971,” and regulations in 61 Pa. Code Pt. I, Subpt. B, Art. V (relating to personal income tax) NOT INCLUDING, however, wages or compensation paid to individuals on active military service. Employee business expenses are allowable deductions as determined under Article III of the “Tax Reform Code of 1971”. Any housing allowance provided to a member of the clergy shall not be taxable as earned income.

- D. **EMPLOYER** – An individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, is including a self-employed person.
- E. **HE, HIS or HIM** – Indicates the singular and plural number, as well as male, female and neuter genders.
- F. **INDIVIDUAL** – Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.
- G. **NET PROFITS** – The net income from the operation of a business, profession, or other activity, (except from Corporations), determined under section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the “Tax Reform Code of 1971,” and regulations in 61 Pa. Code Pt. I, Subpt. B, Art. V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of fanning the term shall not include:
1. Any interest generated from monetary accounts or investment instrument of the farming business;
 2. Any gain on the sale of farming machinery;
 3. Any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and
 4. Any gain on the sale of other capital assets of the farm.
- H. **OCCUPATION** – Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of the political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.
- I. **POLITICAL SUBDIVISION OR TOWNSHIP** – The Township of Sewickley, or where the context indicates, the area within the corporate limits of the Township of Sewickley.
- J. **RESERVE COMPONENT 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.
- K. **TAX** – The local services tax at the rate fixed in this Part.
- L. **TAX YEAR** – The period from January 1 until December 31 in any year; a calendar year.

§205. Levy of Tax.

The Township of Sewickley hereby levies, assesses and imposes on every individual engaging in an occupation with the jurisdictional limits of the Township of Sewickley a tax in the amount of \$52.00 per annum, beginning the first day of January 2008 and continuing on a calendar basis annually thereafter, until modified or repealed by subsequent ordinance. This tax may be used solely for the following purposes as the same may be allocated by the Township of Sewickley from time to time: (1) emergency services, which shall include emergency medical services, police services and/or fire services; (2) road construction and/or maintenance; (3) reduction of property taxes; or (4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85, Subch. F (relating to homestead property exclusion). The political subdivision shall use no less than twenty-five (25%) percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than \$52.00 on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed.

§206. Exemption and Refunds.

A. Exemption. Any person whose total earned income and net profits from all sources within the political subdivision is less than Twelve Thousand (\$12,000.00) Dollars for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

1. Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent disability.
2. Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subparagraph, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

B. Procedure to Claim Exemption.

1. A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand (\$12,000.00) dollars in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the

year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption, certificate form shall be the uniform form provided by the political subdivision.

2. With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of twelve thousand (\$12,000.00) dollars in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employee's payment to the person of earned income within the municipality in an amount equal to or in excess of twelve thousand (\$12,000.00) dollars in that calendar year, an employer shall withhold the local services tax from the person under clause (3).
 3. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this Part.
 4. Except as provided in clause (2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.
- C. Refunds. The Township of Sewickley, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar (\$1.00). The

Township of Sewickley or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

§207. Duty of Employers to Collect.

- A. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.
- B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Paragraph D of this Section, for purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.
- C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
- D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.
- E. The tax shall be no more than fifty-two (\$52.00) dollars on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax

in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Paragraph B of §206 of this Part and this section and remits the amount so withheld in accordance with this Part.

- G. Employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.

§208. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this Part, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

§209. Dates for Determining Tax Liability and Payment.

Each employer shall use his employment and payroll records from the first day of January to March 31 each year for determining the number of employees from whom said tax shall be deducted and paid over to the collector on or before April 30 of the same calendar year. Supplemental reports shall be made by each employer on July 30, October 30 and January 31 for new employees as reflected on his employment and payroll records from April 1 to June 30, July 1 to September 30 and October 1 to December 31, and payments on these supplemental reports shall be made on July 30, October 30 and January 31, respectively.

§210. Self-Employed Individuals.

Each self-employed individual who has Earned Income or realizes Net Profit, as those terms are defined herein, within the political subdivision shall be required to comply with this Part and pay the tax due to the Collector on or before the thirtieth day following the end of each quarter.

§211. Individuals Engaged in More than One Occupation or Employed in More than One Political Subdivision.

- A. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:
1. First, the political subdivision in which a person maintains his or her principal office or is principally employed;
 2. Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
 3. Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political

subdivisions.

§212. Nonresidents Subject to Tax.

All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Part with the same force and effect as though they were residents of the political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this Part, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§213. Administration of Tax.

- A. It shall be the duty of the Collector to accept and receive payments of this tax and keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received. It shall be the duty of the Collector to accept and keep a record of the information submitted by employers relating to the number of employees subject to the tax, the number of employees exempt from the tax, the employee exemption certificates and refunds of the tax paid to individuals and employers.
- B. The Collector is hereby charged with the administration and enforcement of this Part and is hereby charged and empowered, subject to Township approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination of payroll records of any employer subject to this Part, the examination and correction of any return made in compliance with this Part and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal to the Court of Common Pleas of Westmoreland County after exhausting any Administrative remedies, as in other cases provided.
- C. The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

§214. Suits for Collection.

- A. In the event that any tax under this Part remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this Part, together with interest and penalty.
- B. If for any reason the tax is not paid when due, interest at the rate of six (6%) percent on the amount of such tax shall be calculated beginning with the due date of the tax and a

penalty of five (5%) percent shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection

§215. Violations and Penalties.

Whoever makes any false or untrue statement on any return required by this Part, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this Part shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this Part.

§216. Interpretation.

- A. Nothing contained in this Part shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
- B. If the tax hereby imposed under the provisions of this Part shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

Part 3 – Per Capita

§301. Levy of Tax.

An annual per capita tax of five dollars (\$5.00), for general Township purposes, is hereby levied and assessed upon each resident and inhabitant of the Township who is over the age of eighteen (18) years.

§302. Collection of Tax.

The per capita tax shall be collected by the duly elected or appointed Tax Collector of the Township in the manner prescribed by the Local Tax Collection Enabling Act of 1965 as amended and supplemented. Said Tax Collector shall exercise all the powers and shall have all of the duties provided for in the Local Tax Enabling Act.

§303. Penalty for Violation.

Any person, firm or corporation who shall violate any provision of this Part or Ordinance shall, upon being found liable in a civil enforcement proceeding, pay a civil fine of not more than \$600.00 plus court costs, including reasonable attorney fees incurred by the Township in

undertaking actions to correct said violation or enforce any provision of this Part or Ordinance and/or collect such civil fine and judgment.

§304. Authority for Enactment.

This Part 3 is enacted under the authority of the Local Tax Enabling Act, Act 511 of 1965, December 31, P.L. 1257, as amended.

Part 4 – Real Estate Transfer

§401. Imposition of Tax.

A tax for general revenue purposes is hereby levied, assessed, and imposed on the transfer of title of real estate or an interest in real estate situate in the Township of Sewickley at the rate of one (1%) percent of the value of the real estate involved in the transaction, upon 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, concerning such transfer of real estate, which tax shall be payable at the earlier of the time the document is presented for recording, or within thirty (30) days of acceptance of such document, or within thirty (30) days of becoming an acquired company.

§402. Definitions.

- A. There is hereby incorporated herein the definitions of words and terms as found in the Act of December 31, 1965 (P.L. 1257, No. 511), known as the “Local Tax Enabling Act,” as amended, and the Act of July 2, 1986 (P.L. No. 1986-77), 72 P.S. Section 8101-C et seq., authorized by Article XI-D of said Act, 72 P.S. Section 8101-D et seq., the “Local Real Estate Transfer Tax” Act.

- B. Words used in this Ordinance which are defined in the Act of December 31, 1965 (P.L. 1257, No. 511), known as the Local Tax Enabling Act, as amended, and the Act of July 2, 1986 (P.L. No. 1986-77), 72 P.S. Section 8101-C et seq., authorized by Article XI-D of said Act, 72 P.S. Section 8101-D et seq., the “Local Real Estate Transfer Tax” Act, shall have the meaning ascribed to them in those acts unless the context herein indicates a different meaning.

§403. Exemptions and Exclusions.

This tax shall not apply to nor be imposed upon persons and transfers specifically exempt by the Act of December 31, 1965 (P.L. 1257, No. 511), known as the Local Tax Enabling Act, as amended, and the Act of July 2, 1986 (P.L. No. 986-77), 72 P.S. Section 8101-C et seq., authorized by Article XI-D of said Act, 72 P.S. Section 8101-D et seq., the “Local Real Estate Transfer Tax” Act.

§404. Procedures for Payment.

- A. Payment of Tax. The payment of the tax imposed by this Ordinance shall be evidenced by the affixing of a documentary stamp or stamps to every document by the person making, executing, delivering, or presenting for recording such document as provided in the Act of July 2, 1986 (P.L. No. 1986-77), 72 P.S. Section 8101-C et seq., authorized by

Article XI-D of said Act, 72 P.S. Section 8101-D et seq., the “Local Real Estate Transfer Tax” Act, which evidence may also be made by the use of documentary license meter impressions or similar indicia of payment in lieu of stamps, as in the discretion of the Recorder of Deeds, is from time to time determined.

B. Duties of Recorder of Deeds.

1. As provided in 16 P.S. Section 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 Township of Sewickley based on a redetermination made by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax due.
2. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.
3. On or before the tenth of each month, the recorder shall pay over to the Township of Sewickley 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.
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.

§405. Documents Relating to Associations or Corporation and Members, Partners, Shareholders Thereof.

Except as otherwise provided in Section 1102-C.3 of the Tax Reform Code – Amendments, the Act of July 2, 1986 (P.L. No. 1986-77), 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 ordinance, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

§406. Acquired Company.

- A. For purposes of this Ordinance, a real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change:
 1. Does not affect the continuity of the company; and
 2. Of itself or together with prior changes has the effect of transferring, directly or indirectly, ninety per cent 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 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.

§407. 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 of tax due, no refund or carryover credit shall be allowed.

§408. 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.

§409. 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.

§410. Unlawful Acts and Penalty.

A. It shall be unlawful for any person to:

1. Accept or present for recording, or cause to be accepted or presented for recording, any document without the full amount of the tax thereon being duly paid; or
2. Make use of any documentary stamp to denote payment of any tax imposed by this Ordinance without cancelling such stamp, as required by this Ordinance; or
3. Fail, neglect, or refuse to comply with, or violate the rules and regulations prescribed, adopted, and promulgated by the Department of Revenue of the Commonwealth of Pennsylvania, which rules and regulations are hereby adopted as the rules and regulations of the Township of Sewickley for purposes of the tax imposed under this Ordinance.

B. Any person violating any of the provisions of Subsection A above shall be guilty of a summary offense.

C. It shall be unlawful for any person to:

1. Fraudulently cut, tear or remove from a document any documentary stamp; or,
2. Fraudulently affix to any document upon which tax is imposed by this Ordinance any documentary stamp which has been cut, torn or removed from any other document upon which tax is imposed by this Ordinance, or any documentary stamp of insufficient value, or any forged or counterfeited stamp, or any impression of any forged or counterfeited stamp, die, plate or other article; or,
3. Willfully remove or alter the cancellation marks of any documentary stamp, or restore any such documentary stamp, with intent to use or cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale, or give any such altered or restored stamp to any person for use, or knowingly use the same; or,
4. Knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which tax is imposed by this Ordinance. Provided, that the possession of such stamps shall be prima facie evidence of any intent to violate the provisions of this clause; or,
5. Knowingly or willfully prepare, keep, sell, offer for sale, or have in his possession, any forged or counterfeited documentary stamps.
6. Make a false statement of value or false declaration of acquisition, when he does not believe the statement or declaration is true.

7. Any person violating any of the provisions of Subsection C above, shall be guilty of a misdemeanor.

§411. Interest and Civil Penalties.

A. Interest. All taxes imposed by this Ordinance which are not paid when due shall bear interest thereon at the rate of one-half of 1% per month until paid.

B. Penalties.

1. If any part of any underpayment of tax imposed by this Ordinance is due to fraud, there shall be added to the tax an amount equal to fifty (50%) per cent of the underpayment.
2. In the case of failure to record a declaration required under this Ordinance 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 (5%) per cent of the amount of such tax if the failure is for more than one month, with an additional five (5%) per cent for each additional month or fraction thereof, during which such failure continues, not exceeding fifty (50%) per cent in the aggregate.

§412. Liens.

The tax imposed by this ordinance shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Township of Sewickley, 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 ordinance, said lien to begin at the time when the tax under this ordinance 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 Westmoreland County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. Section 7101 et seq., its supplements and amendments.

§413. Enforcement.

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

§414. Regulations.

The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. Section 8101-C et seq. are incorporated into and made a part of this ordinance.

§415. Severability.

If any word, phrase, section, sentence, clause or part of this Ordinance is found to be illegal, invalid or unconstitutional, such illegality, invalidity or unconstitutionality shall not affect or impair any of the remaining words, phrases, sections, sentences, clauses or parts of this Ordinance. It is hereby declared to be the intent of the Township Supervisors that this Ordinance would have been adopted had such illegal, invalid or unconstitutional word, phrase, section, sentence, clause or part thereof not been included therein.

§416. Authority.

This Ordinance is enacted under the authority of the Local Tax Enabling Act, as of December 31, 1965 (P.L. 1257, No. 511) known as the Local Tax Enabling Act, as amended, and the Act of July 2, 1986 (P.L. No. 1986-77), 72 P.S. Section 8101-C et. seq., authorized by Article XI-D of said Act, 72 P.S. Section 8101-D et seq., the “Local Real Estate Transfer Tax” Act. The imposition of this tax and the provisions of this Ordinance shall remain in effect on an annual basis without annual reenactment unless the rate of tax is subsequently changed.

§417. Continuation.

All Ordinances and all Resolutions or parts of Resolutions inconsistent with this Ordinance are hereby repealed, with the exception that this Ordinance shall be a continuation of the taxes, interest and penalties levied and imposed by prior Ordinances and Resolutions of the Township to the extent that such taxes, interest and penalties as of the effective date of this Ordinance remain unpaid and/or uncollected. It is the intention of the Township Supervisors that this Ordinance shall constitute a continuation of the imposition and levying of the real estate transfer tax upon residents of the Township, either by prior Ordinances and Resolutions of the Township, or under this Ordinance.

Part 5 – Delinquent Tax Penalties

§501. Penalty for Delinquent Payments of All Local Services Taxes and Per Capita Taxes.

There is hereby imposed upon all local services and per capita taxes remaining unpaid as of the date established as the last date for payment of the same, interest at the rate of ten (10%) percent per annum and a penalty, in addition to said interest at the rate of ten (10%) percent per annum, which interest and penalty shall be added to the taxes and collected by the Tax Collector, or as otherwise provided by law.

§502. Penalty for Delinquent Payments of All Earned Income and Net Profits Taxes.

There is hereby imposed upon all earned income and net profits taxes remaining unpaid as of the date established as the last date for payment of the same, interest at the rate of six (6%) percent per annum on amount of said tax and an additional penalty of one-half of one (1/2%) percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, which interest and penalty shall be added to the taxes and collected by the Tax Collector, or as otherwise provided by law.

§503. Penalty for Delinquent Payments of Real Estate Taxes.

There is hereby imposed upon real estate taxes remaining unpaid as of the date established as the last date for payment of the same, interest at the rate of ten (10%) percent per annum, which interest shall be added to the taxes and collected by the Tax Collector, or as otherwise provided by law.