

Chapter 163 TAXATION

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[HISTORY: Adopted by the BOROUGH COUNCIL: Art. I, 1-19-77 as Ord. No. 552; Art. II, 12-28-78 as Ord. No. 586; Art. III, 12-16-81 as Ord. No. 633; Art. IV, 11-5-86 as Ord. No. 711. Sections 163.18 and 163.33.3 amended at time of adoption of CODE; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I

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Payment of Taxes
[Adopted 1-19-77 as Ord. No. 552]

§163.1. Discount for early payment. [Amended 6-1-94 by Ord. No. 815]

All taxpayers of taxes assessed by the Borough of Whitehall, other than those taxes assessed under authority of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. § 6901 et seq., shall be entitled to a discount of two per centum (2%) from the amount of such tax upon making payment of the whole amount thereof within the two (2) months after the date of the tax notice which shall be February 1st of each year.

§163.2. Payment at face amount.

All taxpayers of taxes assessed by the BOROUGH, other than those taxes assessed under authority of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. § 6901 et seq., who shall make payment of any such taxes charged against them in the third or fourth month after the date of the tax notice, shall pay the tax at its face amount without discount or penalty.

§ 163.3. Penalty for late payment. [Amended 12-5-90 by Ord. No. 765; 6-1-94 by Ord. No. 815]

All taxpayers of such taxes assessed by the Borough of Whitehall, other than those taxes so assessed under authority of the Local Tax Enabling Act, who shall fail to make payment of any such taxes charged against them for four (4) months after the date of tax notice or by May 31, shall be charged a penalty of ten percent (10%), which penalty shall be added to the taxes by the Tax Collector and shall be collected by him.

§163.4. Interest on late tax payments. [Amended 12-5-90 by Ord. No. 765¹]

All taxpayers of taxes assessed by the BOROUGH under § 163.3 hereof shall be charged interest at the rate of one-half percent (1/2%) per month on the total of the face amount of the taxes and penalty due, said interest to commence with the filing of a lien in the prothonotary's office.

§163.5. Interim Tax Billing. [Added 03-03-93 by Ord. No. 899]

Whenever there is any construction of a building or buildings not otherwise exempt as a dwelling after the Borough Council has prepared a duplicate of the assessment of Borough taxes and the building is not included on the tax duplicate of the Borough, the authority responsible for assessments in the Borough shall, upon the request of the Borough Council, direct the assessor in the Borough to inspect and reassess, subject to the right of appeal and adjustment provided by the Act of Assembly under which assessments are made, all taxable property in the Borough to which major improvements have been made after the original duplicates were prepared, and to give notice of such reassessments within ten (10) days to the authority responsible for assessments, the Borough and the property owner. The property shall then be added to the

¹ Editor's Note: Former § 163.5, Interest on late tax payments, was redesignated as § 163.4 12-5-90 by Ord. No. 765, which ordinance also repealed former § 163.4, Penalty for subsequent late payment.

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duplicate and shall be taxable for Borough purposes at the reassessed valuation for the proportionate part of the fiscal year of the Borough remaining after the property was improved. Any improvement made during the month shall be computed as having been made on the first of the month. A certified copy of the additions or revisions to the duplicate shall be furnished by the Borough Council to the Borough tax collector, together with their warrant for collection of same, and within ten (10) days thereafter, the Borough tax collector shall notify the owner of the property of the taxes due the Borough. Said taxes shall be collected and paid in accordance with the provisions of Chapter 163, Article I of the Code of the Borough of Whitehall. **[Added 03-03-99 by Ord. No. 899]**

ARTICLE II

Earned Income and Net Profits Tax ***[Adopted 12-28-78 as Ord. No. 586]***

§163.6. Definitions.

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

ASSOCIATION - A partnership, limited partnership or any other unincorporated group of two (2) or more PERSONS.

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

CALENDAR TAX YEAR - The calendar year for which the tax is levied.

CORPORATION - A corporation or joint-stock ASSOCIATION organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency.

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

EARNED INCOME - Salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a PERSON or his PERSONAL representative for services rendered, whether directly or through an agent, and whether in cash or in property; not including, however, wages or compensation paid to PERSONS on active military service, periodic payments for sickness and disability other than regular wages received during period of sickness, disability or retirement, or payments arising under workmen's compensation acts, occupational disease acts and similar legislation, or

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payments commonly recognized as old-age benefits, retirement pay or pensions paid to PERSONS retired from service after reaching a specific age or after a stated period of employment, or payments commonly known as public assistance or unemployment compensation payments made by any governmental agency, or payments to reimburse expenses, or payments made by employers or labor unions for wage and salary supplemental programs, including but not limited to programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.

EMPLOYER - A PERSON, partnership, ASSOCIATION, CORPORATION, institution, governmental body or unit or agency, or any other entity employing one (1) or more PERSONS for a salary, wage, commission or other compensation.

INCOME TAX OFFICER or OFFICER - A PERSON, public employee or private agency designated by the GOVERNING BODY to collect and administer the tax on EARNED INCOME and net profits.

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

NONRESIDENT - A PERSON, partnership, ASSOCIATION or other entity DOMICILED outside the taxing district.

PERSON OR INDIVIDUAL - A natural PERSON.

PRECEDING YEAR - The calendar year before the current year.

RESIDENT - A PERSON, partnership, ASSOCIATION or other entity DOMICILED in the taxing district.

SUCCEEDING YEAR - The calendar year following the CALENDAR TAX YEAR.

TAXPAYER - A PERSON, partnership, ASSOCIATION or any other entity required hereunder to file a return of EARNED INCOME or NET PROFITS or to pay a tax thereon.

§163.7. Tax imposed; rate.

A tax for general revenue purposes of one and two-tenths percent (1.2%) is hereby imposed on the following:

163.7.1. EARNED INCOME received on and after January 1, 2020, by RESIDENTS of the BOROUGH.

163.7.2. NET PROFITS earned on and after January 1, 2020, by RESIDENTS of the BOROUGH.

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§163.8. Effective date of tax; continuance.

The tax levied herein shall be effective April 1, 1979, and the tax shall continue in force without reenactment unless the rate of tax is subsequently changed, in which case the changes and rates shall become effective on the date specified in the ordinance adopted by the BOROUGH.

§163.9. Enforceability of prior tax.

For all periods prior to January 1, 2020, the tax levied and imposed by Ordinance No. 586, dated December 28, 1978, as amended, shall remain in force and shall be levied, imposed and collected as before.

§163.10. Declaration of estimated NET PROFITS; final returns; payment of tax; discontinuance of BUSINESS.

Every TAXPAYER making NET PROFITS shall file the following forms and pay the tax herein imposed as follows:

163.10.1. Every TAXPAYER making NET PROFITS shall, on or before April 15 of the CALENDAR TAX YEAR, make and file with the OFFICER, on a form prescribed or approved by the OFFICER, a declaration of his estimated NET PROFITS during the period beginning January 1 and ending December 31 of the CALENDAR TAX YEAR, and pay to the OFFICER in four (4) equal quarterly installments the tax thereon as follows: the first installment at the time of filing the declaration and the other installments on or before June 15 of the current year, September 15 of the current year and January 15 of the SUCCEEDING YEAR, respectively.

163.10.2. Any TAXPAYER who first anticipates any net profit after April 15 of the CALENDAR TAX YEAR shall make and file the declaration hereinabove required on or before June 15 of the CALENDAR TAX YEAR, September 15 of the CALENDAR TAX YEAR or December 31 of the CALENDAR TAX YEAR, whichever of these dates next follows the date on which the TAXPAYER first anticipates such NET PROFITS, and pay to the OFFICER in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.

163.10.3. Every TAXPAYER shall, on or before April 15 of the SUCCEEDING YEAR, make and file with the OFFICER, on a form prescribed or approved by the OFFICER, a final return showing the amount of NET PROFITS earned during the period beginning January 1 of the prior CALENDAR TAX YEAR and ending December 31 of the prior CALENDAR TAX YEAR, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the TAXPAYER shall pay to the OFFICER the balance of tax due or shall make demand for refund or credit in the case of overpayment.

163.10.4. Any TAXPAYER may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the OFFICER, on or before January 31 of the SUCCEEDING YEAR, the final return as hereinabove required.

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163.10.5. The OFFICER is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated NET PROFITS and for the payments of the estimated tax in cases where a TAXPAYER who has filed the declaration hereinabove required anticipates additional NET PROFITS not previously declared or finds that he has overestimated his anticipated NET PROFITS.

163.10.6. Every TAXPAYER who discontinues BUSINESS prior to December 31 of any CALENDAR TAX YEAR shall, within thirty (30) days after the discontinuance of BUSINESS, file his final return as hereinabove required and pay the tax due.

§ 163.11. Filing of EARNED INCOME tax returns.

Every TAXPAYER having an EARNED INCOME shall file the following forms and pay the tax herein imposed as follows:

163.11.1. Every TAXPAYER shall, on or before April 15 of the SUCCEEDING YEAR, make and file with the OFFICER, on a form prescribed or approved by the OFFICER, a final return showing the amount of EARNED INCOME received during the period beginning January 1 of the prior CALENDAR TAX YEAR and ending December 31 of the prior CALENDAR TAX YEAR, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the TAXPAYER shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

163.11.2. Every TAXPAYER who is employed for a salary, wage, commission or other compensation and who receives any EARNED INCOME not subject to the provisions relating to collection at source shall make and file with the OFFICER, on a form prescribed or approved by the OFFICER, a quarterly return on or before April 30 of each CALENDAR TAX YEAR, July 31 of each CALENDAR TAX YEAR, October 31 of each CALENDAR TAX YEAR and January 31 of the SUCCEEDING YEAR, setting forth the aggregate amount of EARNED INCOME not subject to withholding by him during the three-month periods ending March 31, June 30, September 30 and December 31 of the CALENDAR TAX YEAR, respectively, and subject to the tax, together with such other information as the OFFICER may require. Every TAXPAYER making such return shall, at the time of filing thereof, pay to the OFFICER the amount of tax shown as due thereon.

§ 163.12. Registration of EMPLOYERS.

Every EMPLOYER having an office, factory, workshop, branch, warehouse or other place of BUSINESS within this taxing jurisdiction, imposing a tax on EARNED INCOME or NET PROFITS within the taxing district, who employs one (1) or more PERSONS, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within fifteen (15) days after becoming an EMPLOYER, register with the OFFICER his name and address and such other information as the OFFICER may require.

§ 163.13. Collection at source.

163.13.1. Every EMPLOYER having an office, factory, workshop, branch, warehouse or other place of BUSINESS within the taxing jurisdiction, imposing a tax on

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EARNED INCOME or NET PROFITS within the taxing district, who employs one (1) or more PERSONS, other than domestic servants, for a salary, wage, commission or other compensation, shall deduct at the time of payment thereof the tax imposed on the EARNED INCOME due his employee or employees, and shall, on or before April 30 of the CALENDAR TAX YEAR, July 31 of the CALENDAR TAX YEAR, October 31 of the CALENDAR TAX YEAR and January 31 of the SUCCEEDING YEAR, file a return and pay to the OFFICER the amount of taxes deducted during the preceding three-month periods ending March 31 of the CALENDAR TAX YEAR, June 30 of the CALENDAR TAX YEAR, September 30 of the CALENDAR TAX YEAR and December 31 of the CALENDAR TAX YEAR, respectively. Such return, unless otherwise agreed upon between the OFFICER and EMPLOYER, shall show the name and social security number of each such employee, the EARNED INCOME of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total EARNED INCOME of all such employees during such preceding three-month period and the total tax deducted therefrom and paid with the return.

163.13.2. Any EMPLOYER who for two (2) of the preceding four (4) quarterly periods has failed to deduct the proper tax or any part thereof or has failed to pay over the proper amount of tax to the taxing authority may be required by the OFFICER to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the OFFICER on or before the last day of the month succeeding the month for which the tax was withheld.

§ 163.14. Filing of annual return and withholding statement by EMPLOYERS.

Every EMPLOYER shall file with the OFFICER the following:

163.14.1. On or before February 28 of the succeeding year, an annual return showing the total amount of EARNED INCOME paid, the total amount of tax deducted and the total amount of tax paid to the OFFICER for the period beginning January 1 of the prior CALENDAR TAX YEAR and ending December 31 of the prior CALENDAR TAX YEAR.

163.14.2. On or before February 28 of the succeeding year, a return withholding statement for each employee employed during all or any part of the period beginning January 1 of the prior CALENDAR TAX YEAR and ending December 31 of the prior CALENDAR TAX YEAR, setting forth the employee's name, address and social security number, the amount of EARNED INCOME paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon each employee and 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.

163.14.3. Every EMPLOYER who discontinues BUSINESS prior to December 31 of the CALENDAR TAX YEAR shall, within thirty (30) days after the discontinuance of BUSINESS, file the returns and withholding statements hereinabove required and pay the tax due.

163.14.4. Every EMPLOYER who willfully or negligently fails or omits to make the deductions required by this Article shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.

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163.14.5. The failure or omission of any EMPLOYER to make the deductions required by this Article shall not relieve any employee from the payment of the tax or from complying with the requirements of this Article relating to the filing of declarations and returns.

§ 163.15. Powers and duties of OFFICER.

The OFFICER shall have the following powers and duties:

163.15.1. It shall be the duty of the OFFICER to collect and receive the taxes, fines and penalties imposed by this Article. It shall also be his duty to keep a record showing the amount received by him from each PERSON or BUSINESS paying the tax and the date of such receipt.

163.15.2. Each OFFICER, before entering upon his official duties, shall give and acknowledge a bond to the BOROUGH.

The BOROUGH may, however, designate any bond previously given by the OFFICER as adequate, and such bond shall be sufficient to satisfy the requirements of this subsection.

163.15.2.1. Each such bond shall be joint and several, with one (1) or more corporate sureties which shall be surety companies authorized to do BUSINESS in this commonwealth and duly licensed by the Insurance Commissioner of this commonwealth.

163.15.2.2. Each bond shall be conditioned upon the faithful discharge by the OFFICER, his clerks, assistants and appointees of all trusts confided in him by virtue of his office; upon the faithful execution of all duties required of him by virtue of his office; upon the just and faithful accounting or payment over, according to law, of all moneys and all balances thereof paid to, received or held by him by virtue of his office; and upon the delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office.

163.15.2.3. Each such bond shall be taken in the name of the BOROUGH and such other appointing political subdivision and shall be for the use of the political subdivision or political subdivisions appointing the OFFICER and for the use of such other PERSON or PERSONS for whom money shall be collected or received or as his or her interest shall otherwise appear in case of a breach of any of the conditions thereof by the acts or neglect of the principal on the bond.

163.15.2.4. The BOROUGH and other political subdivisions appointing the OFFICER or any PERSON may sue upon the said bond in its or his own name for its or his own use.

163.15.2.5. Each such bond shall contain the name or names of the surety company or companies bound thereon. The political subdivision or political subdivisions appointing the OFFICER shall fix the amount of the bond at an amount equal to the maximum amount of taxes which may be in the possession of

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the OFFICER at any given time.

163.15.2.6. The BOROUGH and other political subdivisions appointing the OFFICER may, at any time, upon cause shown and due notice to the OFFICER and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to the BOROUGH and other political subdivisions for the purpose of making the bond sufficient in amount, without releasing the surety or sureties first approved from any accrued liability or previous action on such bond.

163.15.2.7. The BOROUGH and other political subdivisions appointing the OFFICER shall designate the custodian of the bond required to be given by the OFFICER.

163.15.3. The OFFICER charged with the administration and enforcement of the provisions of this Article is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Article, including provisions for the reexamination and correction of declarations and returns and of payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred, and to make refunds in case of overpayment for any period of time not to exceed three (3) years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of this Article. No rule or regulation of any kind shall be enforceable unless it has been approved by ordinance by the GOVERNING BODY. A copy of such rules and regulations currently in force shall be available for public inspection.

163.15.4. The OFFICER shall refund, on petition of and proof by the TAXPAYER, EARNED INCOME tax paid on the TAXPAYER'S ordinary and necessary BUSINESS expenses, to the extent that such expenses are not paid by the TAXPAYER'S EMPLOYER.

163.15.5. The OFFICER and agents designated by him are hereby authorized to examine the books, papers and records of any EMPLOYER or of any TAXPAYER or of any PERSON whom the OFFICER reasonably believes to be an EMPLOYER or TAXPAYER, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every EMPLOYER and every TAXPAYER and every PERSON whom the OFFICER reasonably believes to be an EMPLOYER or TAXPAYER is hereby directed and required to give to the OFFICER or to any agent designated by him the means, facilities and opportunity for such examination and investigations as are hereby authorized.

163.15.6. Any information gained by the OFFICER, his agents or by any other official or agent of the taxing district as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Article shall be confidential except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.

163.15.7. The OFFICER is authorized to establish different filing, reporting and payment dates for TAXPAYERS whose fiscal years do not coincide with the calendar year.

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§163.16. Suits for recovery of taxes.

The OFFICER may sue in the name of the BOROUGH for the recovery of taxes due and unpaid under this Article.

163.16.1. Any suit brought to recover the tax imposed by this Article shall begin within three (3) years after such tax is due or within three (3) years after the declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

163.16.1.1. Where no declaration or return was filed by any PERSON although a declaration or return was required to be filed by him under provisions of this Article, there shall be no limitation.

163.16.1.2. Where an examination of the declaration or return filed by any PERSON or of other evidence relating to such declaration or return in the possession of the OFFICER reveals a fraudulent evasion of taxes, there shall be no limitation.

163.16.1.3. In the case of substantial understatement of tax liability of twenty-five percent (25%) or more and no fraud, suit shall be begun within six (6) years.

163.16.1.4. Where any PERSON has deducted taxes under the provisions of this Article and has failed to pay the amounts so deducted to the OFFICER, or where any PERSON has willfully failed or omitted to make the deductions required by this Article there shall be no limitation.

163.16.2. This section shall not be construed to limit the BOROUGH from recovering delinquent taxes by any other means.

163.16.3. The OFFICER may sue for recovery of an erroneous refund, provided that such suit is begun two (2) years after making such refund, except that the suit may be brought within five (5) years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

§163.17. Interest and penalties on unpaid taxes.

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

§163.18. Violations and penalties. [Amended 4-18-84 by Ord. No. 680]

Any PERSON who fails, neglects or refuses to make any declaration or return required by

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this Article; any EMPLOYER who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees; any PERSON who refuses to permit the OFFICER or any agent designated by him to examine his books, records and papers; and any PERSON who knowingly makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of his NET PROFITS or EARNED INCOME in order to avoid the payment of the whole or any part of the tax imposed by this Article, shall, upon conviction thereof before any District Justice or court of competent jurisdiction in the county, be subject to the maximum penalty provided by law.

§163.19. Disclosure of confidential information; penalty.

Any PERSON who divulges any information which is confidential under the provisions of this Article shall, upon conviction thereof before any District Justice or court of competent jurisdiction, be subject to the maximum penalty provided by law.

§163.20. Additional penalties.

The penalties imposed under ~~§§163.17~~ and ~~163.18~~ shall be in addition to any other penalty imposed by any other section of this Article.

§163.21. Liability for making declarations and returns.

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

ARTICLE III

Occupational Privilege Tax

[Adopted 12-16-81 as Ord. No. 633]

[Repealed 12-05-07 by Ord. No. 1005]

~~§163.22. Statutory authority; title. [Amended 9-18-91 by Ord. No. 774]~~

~~This Article is passed pursuant to the powers granted to the BOROUGH under its CHARTER and the statutes of the Commonwealth of Pennsylvania and shall be known as and may be cited as the "Occupational Privilege Tax Ordinance."~~

~~§163.23. Definitions.~~

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

~~BOROUGH—The Borough of Whitehall.~~

~~COMPENSATION—Salary, wages, commissions, tips, bonuses, fees, gross receipts or any other income derived from engaging in an occupation.~~

~~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, including a sole owner, engaged in any occupation other than domestic~~

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servants.

~~OCCUPATION—Includes any livelihood, job, trade, profession, BUSINESS or enterprise of any kind, including services, for which any compensation is received.~~

~~TAX—The tax imposed by this Article.~~

~~TAX COLLECTOR—The PERSON, public employee or private agency designated by the BOROUGH to collect and administer the tax imposed herein.~~

~~TAXPAYER—Any natural PERSON liable for the tax levied by this Article.~~

§163.24. — Imposition tax. [Amended 9-18-91 by Ord. No. 774]

~~A tax for general revenue purposes in the amount of ten dollars (\$10.) is hereby imposed and levied upon the privilege of engaging in an occupation within the BOROUGH. This tax is imposed for the calendar year 1991 and for each following calendar year. Each natural PERSON who exercises such privilege for any length of time in the calendar year 1991 or any year thereafter shall pay the tax in accordance with the provisions hereof; provided, however, that the tax hereby imposed and levied shall not be imposed and levied on any natural PERSON whose total income during the tax year is less than five thousand two hundred dollars (\$5,200.).~~

§163.25. — Tax additional.

~~This tax shall be in addition to all other taxes of any kind or nature heretofore or hereafter levied by the BOROUGH.~~

§163.26. — Duty of EMPLOYER to collect tax; registration of EMPLOYERS.

~~Each EMPLOYER is hereby charged with the duty of collecting this occupation tax from each of his employees within the BOROUGH and making a return in payment thereof to the Tax Collector. In furtherance of this duty, every EMPLOYER shall, within thirty (30) days after the effective date of this Article or within thirty (30) days after first becoming an EMPLOYER, register with the Tax Collector the EMPLOYER's name, address and such other information as the Tax Collector may reasonably require.~~

§163.27. — Deduction from wages; filing of returns and payment of tax. [Amended 6-6-84 by Ord. No. 682]

~~As to each TAXPAYER who is employed as of the first working day of January of any year in which the tax is imposed, each EMPLOYER shall deduct the tax from the first paycheck of the year. The EMPLOYER shall file a return on the form prescribed by the Tax Collector and pay to the Tax Collector the full amount of all taxes collected on or before May 1. Thereafter, the EMPLOYER shall require each new employee to furnish him a certificate of payment of occupational privilege tax. In the event that such employee has not previously paid an occupational privilege tax, the EMPLOYER shall deduct the tax from the first full paycheck after hire, shall file a return on the form prescribed by the Tax Collector and pay to said Tax Collector the full amount of the taxes deducted on or before the last day of the month in which the tax is deducted.~~

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~~§163.28. — Liability of EMPLOYER for tax.~~

~~Any EMPLOYER who fails to deduct the tax as required by this Article or fails to pay such tax to the Tax Collector shall be liable for such tax in full as though the tax had originally been levied against such EMPLOYER.~~

~~§163.29. — Duty of employee upon default of EMPLOYER.~~

~~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.~~

~~§163.30. — Self-employed INDIVIDUALS.~~

~~All self-employed INDIVIDUALS who perform services of any type or kind or engage in any occupation or profession within the BOROUGH and any PERSON whose tax, for any other reason, is not collected under § 163.27 of this Article shall file a return on a form prescribed by the Tax Collector and shall pay the tax directly to said Collector on the last day of the first month of any year when such TAXPAYER first becomes subject to the tax.~~

~~§163.31. — Applicability to both RESIDENTS and NONRESIDENTS.~~

~~Both RESIDENTS and NONRESIDENTS shall, by virtue of engaging in an occupation within the BOROUGH, be subject to the tax and to the provisions of this Article.~~

~~§163.32. — Duties of Tax Collector; recordkeeping; inspections.~~

~~The Tax 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, from whom received and the date such amounts were received. The Tax Collector shall prescribe and issue all forms necessary for the administration of the tax and may adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Article, including but not limited to requirements for collection through EMPLOYERS, requirements for deductions, requirements for evidence and records and provisions for the examination and correction of returns. The Tax 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 Tax Collector and any PERSON designated by him all means, facilities and opportunities for the examinations hereby authorized.~~

~~§163.33. — Interest and penalty; payment under protest; violations and penalties.~~

~~The Tax Collector shall collect, by suit or otherwise, all taxes, interests, 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%) on the amount of unpaid tax shall be calculated beginning with the due date of said tax, and a penalty of ten percent (10%) shall be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the INDIVIDUAL liable therefor shall, in addition, be responsible and liable for the costs of collection.~~

~~163.33.1. — The Tax Collector may accept payment under protest of the tax~~

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~~claimed. If a court of competent jurisdiction thereafter decides that there has been an overpayment, the Tax Collector shall refund the amount of the overpayment to the PERSON who paid under protest.~~

~~163.33.2. Any PERSON who makes a false or untrue statement on any return required by this Article or refuses inspection of his books, records or accounts, or who otherwise violates any provision of this Article or any rule or regulation adopted pursuant hereto, shall, upon conviction thereof before any District Justice, be subject to the maximum penalty provided by law. **[Amended 4-18-84 by Ord. No. 680]**~~

§163.34. ~~Nonapplicability; severability.~~

~~This 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 Article or the application of any provision to any circumstance to be illegal or unconstitutional, the other provisions of this Article or the application of such provisions to other circumstances shall remain in full force and effect. The intention of the COUNCIL of the BOROUGH is that the provisions of this Article shall be severable and that this Article would have been adopted if any such illegal or unconstitutional provisions had not been included.~~

ARTICLE IV
Realty Transfer Tax
[Adopted 11-5-86 as Ord. No. 711³]

§163.35. Statutory authority; title.

This Article shall be known and may be cited as the "Realty Transfer Tax Ordinance" and is adopted pursuant to the CHARTER of the BOROUGH and under the authority of Act 77 of 1986, approved July 1, 1986.⁴

§163.36. Definitions.

The following words or phrases, when used in this Article, shall have the meanings ascribed to them in this section:

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 the commonwealth, the United States or any other state, territory, foreign country or dependency.

³ Editor's Note: This ordinance also provided for the repeal of former Art. IV, Deed Transfer Tax, adopted 5-15-68 as Ord. no. 451, as amended.

⁴ Editor's Note: See 72 P.S. § 3283 et seq.

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DEPARTMENT - The Department of Revenue of the Commonwealth of Pennsylvania.

DOCUMENT - Any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to REAL ESTATE but does not include wills; mortgages; deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor; land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid, or any cancellation thereof, unless the consideration is payable over a period of time exceeding thirty (30) years; or instruments which solely grant, vest or confirm a public utility easement.

FAMILY FARM CORPORATION - A CORPORATION of which at least seventy-five percent (75%) of its assets are devoted to the BUSINESS of agriculture and of which 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 half blood or legal adoption shall be treated as if they were related by whole blood.

PERSON - Every natural PERSON, ASSOCIATION or CORPORATION. Whenever used in any clause prescribing and imposing a fine or imprisonment or both, the term "PERSON," as applied to ASSOCIATIONS, shall include the responsible members or general partners thereof and, as applied to CORPORATIONS, the officers thereof.

REAL ESTATE:

- A. Any 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.

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- 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.

REALTY TRANSFER TAX COLLECTOR - The Recorder of Deeds of Allegheny County or such other PERSON designated from time to time by the COUNCIL of the BOROUGH to enforce and administer this Article.

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, 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 (30) years or more or a leasehold interest or possessory interest in REAL ESTATE in which the lessee has equity.

TRANSACTION - The making, executing, delivering, accepting or presenting for recording of a DOCUMENT.

VALUE:

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

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- B. In the case of a gift, a 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 of assessed values to market values of the taxing district as established by the DEPARTMENT realty transfer tax base calculations, or a commensurate part of the assessment where the assessment includes other REAL ESTATE;
- C. In the case of an easement or other interest in REAL ESTATE, the value of which is not determinable under Subsection A or B, the actual monetary worth of such interest; 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 or a related CORPORATION, ASSOCIATION or partnership and the grantee, existing before or effective with the transfer.

§163.37. Imposition of tax. [Amended 12-2-92 by Ord. No. 791]

Subject to the exemptions and exclusions set out in § 163.38, 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 or for or in respect to the vellum parchment or paper upon which such DOCUMENT is written or printed a BOROUGH tax at the rate of three-fourths of one percent ($3/4$ of 1%) of the VALUE of the REAL ESTATE represented by such DOCUMENT, which BOROUGH 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.

§163.38. Exemption; exclusions.

163.38.1. The United States, the Commonwealth of Pennsylvania 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. The tax imposed by this Article shall not be imposed upon:

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

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163.38.1.2. A DOCUMENT which is exempt from taxation under the Constitution and statutes of the United States.

163.38.1.3. 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 a sheriff's sale or Tax Claim Bureau sale.

163.38.1.4. 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.

163.38.1.5. A transfer or division in kind, for no or nominal actual consideration, of property passed by testate or intestate succession and held by cotenants. However, if any of the parties takes shares greater in VALUE than their undivided interest, tax is due on the excess.

163.38.1.6. A transfer between husband and wife; between PERSONS who were previously husband and wife and who have since been divorced, provided that 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 the spouse of a brother or sister and brother or sister or the spouse of a brother or sister; and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one (1) year shall be subject to tax as if the grantor were making such transfer.

163.38.1.7. 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.

163.38.1.8. 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.

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

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

163.38.1.11. A transfer for no or nominal actual consideration between principal and agent or straw party; or 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

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property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.

163.38.1.12. A transfer made pursuant to the statutory merger or consolidation of a CORPORATION or statutory division of a nonprofit CORPORATION, except where it is reasonably determined that the primary intent for such merger, consolidation or division is the avoidance of the tax imposed by this Article.

163.38.1.13. 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.

163.38.1.14. 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.

163.38.1.15. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:

163.38.1.15.1. The grantee shall directly use such REAL ESTATE for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture.

163.38.1.15.2. The agency or authority has the full ownership interest in the REAL ESTATE transferred.

163.38.1.16. 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.

163.38.1.17. 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.

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

163.38.1.19. A transfer of REAL ESTATE devoted to the BUSINESS of agriculture to a FAMILY FARM CORPORATION by a member of the same family

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which directly owns at least seventy-five percent (75%) of each class of the stock thereof.

163.38.1.20. A transfer between members of the same family of an ownership interest in a REAL ESTATE COMPANY or FAMILY FARM CORPORATION.

163.38.1.21. A transaction wherein the tax due is one dollar (\$1.) or less.

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

163.38.2. In order to exercise any exclusion provided in this section, the true, full and complete VALUE of the transfer shall be shown on the statement of VALUE. 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 Article.

§163.39. DOCUMENTS fully taxable.

Except as otherwise provided in § 163.38, 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.

§163.40. Tax credits.

163.40.1. 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.

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

163.40.3. Where there is a transfer of REAL ESTATE which is demised by the grantor, a credit for the amount of tax paid at the time of the demise shall be given to the grantor toward the tax due upon the transfer.

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

163.40.5. 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

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of tax due, no refund or carry-over credit shall be allowed.

§163.41. Renewal or 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 shall be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

§163.42. 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 or estate or costs of the sale and of the writ upon which the sale is made, 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.

§163.43. Documentary stamps.

163.43.1. The payment of the tax imposed by this Article 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. Such stamps shall be affixed in such manner that their removal will require the continued application of steam or water, and the PERSON using or affixing such stamps shall write or stamp or cause to be written or stamped thereon the initials of his name and the date upon which such stamps are affixed or used to the effect that such stamps may not again be used, provided that the REALTY TRANSFER TAX COLLECTOR may prescribe such other methods of cancellation as he may deem expedient.

163.43.2. The use of documentary license meter impressions or similar indicia of payment in lieu of stamps as required by this Article may be permitted in the discretion of the REALTY TRANSFER TAX COLLECTOR.

§163.44. Furnishing and sale of stamps.

The REALTY TRANSFER TAX COLLECTOR shall prescribe, prepare and furnish stamps of such denominations and quantities as may be necessary for the payment of the tax imposed and assessed by this Article.

§163.45. Requisite to recording of DOCUMENTS.

No DOCUMENT upon which tax is imposed by this Article shall at any time be made the basis of any action or other legal proceeding, nor shall proof thereof be offered or received in evidence or be recorded in the office of the Recorder of Deeds of Allegheny County, Pennsylvania, unless documentary stamps as provided in this Article have been affixed thereto.

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§163.46. Statement of VALUE.

Every DOCUMENT presented 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. 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 Article.

§163.47. Civil penalties.

163.47.1. If any part of any underpayment of tax imposed by this Article is due to fraud, there shall be added to the tax an amount equal to fifty percent (50%) of the underpayment.

163.47.2. In the case of failure to record a declaration required under this Article 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.

§163.48. Unlawful acts.

It shall be unlawful for any PERSON to:

163.48.1. Accept or present for recording or cause to be accepted or presented for recording any DOCUMENT, without the full amount of tax thereon being duly paid;

163.48.2. Make use of any documentary stamp to denote payment of any tax imposed by this Article without canceling such stamp as required by this Article;

163.48.3. Fail, neglect or refuse to comply with or violate the rules and regulations prescribed, adopted and promulgated by the DEPARTMENT under the provisions of this Article;

163.48.4. Fraudulently cut, tear or remove from a DOCUMENT any documentary stamp;

163.48.5. Fraudulently affix to any DOCUMENT upon which tax is imposed by this Article any documentary stamp which has been cut, torn or removed from any other DOCUMENT upon which tax is imposed by this Article, 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;

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1636.48.6. 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 away any such altered or restored stamp to any PERSON for use, or knowingly use the same;

163.48.7. 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 Article, provided that the possession of such stamps shall be prima facie evidence of an intent to violate the provisions of this subsection; or

163.48.8. Knowingly or willfully prepare, keep, sell, offer for sale or have in his possession any forged or counterfeited documentary stamps.

§163.49. Determination; additional tax and interest due.
[Amended 1-16-08 by Ord. No. 1009]

163.49.1. The tax imposed under this Article 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 Whitehall, pursuant to Section 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.

163.49.2. Any tax imposed under this Article that is not paid by the date the tax is due shall bear interest at rate set forth hereafter 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 the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. §806), as amended, known as "The Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

§163.50. Tax to be a lien.

Any tax determined to be due by any PERSON hereunder and remaining unpaid after a demand for the same, and all penalties and interest thereon, shall be a lien in favor of the BOROUGH upon the property, both real and PERSONAL, of such PERSON, but only after said lien has been entered and docketed of record by the Prothonotary of Allegheny County. The lien imposed hereunder shall have priority from the date of its recording, and the lien shall continue for five (5) years from the date of its entry of record and may be renewed and continued in the manner now or hereafter provided for the renewal of judgments.

§163.51. Suit for recovery of taxes authorized.

The REALTY TRANSFER TAX COLLECTOR or the BOROUGH Solicitor is further hereby authorized to bring suit for the recovering of taxes due under this Article and unpaid. When suit is brought hereunder for the recovery of unpaid taxes; the PERSON liable therefor shall, in

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addition, be liable for costs of collection and the interest imposed.

§163.52. ~~Interest on unpaid taxes.~~

~~All taxes imposed by this Article not paid when due shall bear interest at the rate of one-half of one percent (1/2 of 1%) per month until paid. [Deleted 1-16-08 by Ord. No. 1009]~~

§163.53. Moneys to be applied to general fund.

Moneys collected pursuant to the tax imposed by this Article shall be turned over to the Treasurer of the BOROUGH to be applied to the general fund.

§163.54. Violations and penalties.

Any PERSON violating any of the provisions of this Article shall, upon conviction thereof, be subject to the maximum penalties provided by law.

- §163.55. (Reserved)**
- §163.56. (Reserved)**
- §163.57. (Reserved)**
- §163.58. (Reserved)**
- §163.59. (Reserved)**

ARTICLE V

Program of Property Tax Relief Pursuant to the ALLEGHENY REGIONAL ASSET DISTRICT LAW (ACT 77 of 1993).

[Adopted 12-7-94 as Ord. No. 824; Codified 1-18-95 by Ord. No. 828]

§163.60. Definitions.

The words and phrases used in this Ordinance are defined as follows:

ACT 77 - The Act of December 22, 1993, Public Law 529, No. 77, codified as the ALLEGHENY REGIONAL ASSET DISTRICT LAW, Pa. Stat. Ann. tit. 16, §6101-B et seq.

ALLEGHENY REGIONAL ASSET DISTRICT LAW - See the definition of "ACT 77" above.

ASSESSMENT - The fair market value of property as determined by the Board of Property Assessment, Appeals and Review.

DEPARTMENT OF PROPERTY ASSESSMENT - The DEPARTMENT OF PROPERTY ASSESSMENT, Appeals, Review and Registry of Allegheny County.

ELIGIBLE TAXPAYER - A LONGTIME OWNER/OCCUPANT of a PRINCIPAL RESIDENCE in the Borough of Whitehall who is: (1) a single PERSON aged sixty-five (65) or older during a calendar year in which Borough real property taxes are due and assessed; or (2) married PERSONS if either spouse is sixty-five (65) or older during a calendar year in which Borough real estate taxes are due and assessed.

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HOUSEHOLD INCOME - All INCOME received by an ELIGIBLE TAXPAYER while residing in his or her PRINCIPAL RESIDENCE during a calendar year.

INCOME - All INCOME from whatever source derived, including but not limited to, salaries, wages, bonuses, commissions, INCOME from self-employment, alimony, support money, cash public assistance and relief, the gross amount of any pensions or annuities including railroad retirement benefits, all benefits received under the Federal Social Security Act (except Medicare benefits), all benefits received under State Unemployment Insurance Laws and Veterans' Disability Payments, all interest received from the Federal or any state government or any instrumentality or political subdivision hereof, realized capital gains, rentals, workmens compensation and the gross amount of loss of time insurance benefits, life insurance benefits and proceeds (except the first Five Thousand Dollars (\$5,000) of the total of death benefit payments), and gifts of cash or property (other than transfers by gift between members of a household) in excess of a total value of Three Hundred Dollars (\$300), but shall not include surplus food or other relief in kind supplied by a governmental agency or property tax or rent rebate or inflation dividend.

LONGTIME OWNER/OCCUPANT - any PERSON who for at least ten (10) continuous years has owned or has occupied the same dwelling place as a PRINCIPAL RESIDENCE and domicile, or any PERSON who for at least five (5) years has owned and occupied the same dwelling as a PRINCIPAL RESIDENCE and domicile if that PERSON received assistance in the acquisition of the property as part of a government or nonprofit housing program.

PERSON - A natural PERSON.

PRINCIPAL RESIDENCE - The dwelling place of a PERSON, including the principal house and lot, and such lots as are used in connection therewith which contribute to its enjoyment, comfort and convenience; or a building with a maximum of one (1) commercial establishment and a maximum of three (3) residential units of which one (1) residential unit must be a PRINCIPAL RESIDENCE of the LONGTIME OWNER/OCCUPANT.

SENIOR CITIZENS REBATE AND ASSISTANCE ACT - The Act of March 11, 1971, Public Law 104 No. 3, as amended, codified at Pa. Stat. Ann. tit. 72, §4751-1 et seq.

§163.61. Limitation of ASSESSMENT for ELIGIBLE TAXPAYERS.

All ELIGIBLE TAXPAYERS in the Borough of Whitehall who are LONGTIME OWNER/OCCUPANTS shall be entitled to have the ASSESSMENT on his or her PRINCIPAL RESIDENCE maintained at or limited to the amount determined by the DEPARTMENT OF PROPERTY ASSESSMENT for the calendar year 1993 if the ELIGIBLE TAXPAYER meets the HOUSEHOLD INCOME limits for qualification for any amount of property tax rebate under the SENIOR CITIZENS REBATE AND ASSISTANCE ACT.

§163.62. Participation in Limitation of Tax ASSESSMENT Program.

Any PERSON paying property taxes in the Borough of Whitehall may apply to the DEPARTMENT OF PROPERTY ASSESSMENT for certification as a participant in the ASSESSMENT limitation program authorized under this Ordinance. In order to be eligible to participate in the program, the PERSON must meet the following conditions:

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163.62.1. The PERSON must be a single PERSON aged sixty-five (65) or older; or be married PERSONS with either spouse being sixty-five (65) years of age or older.

163.62.2. The PERSON must be a LONGTIME OWNER/OCCUPANT; and

163.62.3. The property owned by the PERSON must be the PRINCIPAL RESIDENCE and domicile of the resident.

163.62.4. The PERSON'S HOUSEHOLD INCOME must qualify him or her to receive any amount of property tax rebate under the SENIOR CITIZENS REBATE AND ASSISTANCE ACT.

ARTICLE VI
Local Services Tax
[Added 12-5-07 by Ord. No. 1005]

§163.63. Title.

This Article shall be known and may be cited as the "Local Services Tax Ordinance."

§163.64. Definitions.

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

BOROUGH - The Borough of Whitehall.

BOROUGH COUNCIL - The Borough Council of the Borough of Whitehall.

COLLECTOR - The person, persons, agency, association and/or corporate entity designated by the Borough Council of the Borough of Whitehall to collect the Tax and to carry out and administer the provisions of this Article.

COMPENSATION - Salaries, wages, commissions, tips, bonuses, fees, gross receipts or other income derived from engaging in an Occupation.

EARNED INCOME AND NET PROFITS - Shall have the same meaning as those terms are given in Section 13 of the Local Tax Enabling Act, Act 511 of 1965 (53 P.S. §6313).

EMERGENCY SERVICES - Emergency services, which shall include emergency medical services, police services and/or fire services.

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

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EXEMPTION CERTIFICATE - An exemption certificate substantially in the form of the uniform certificate prescribed by the Pennsylvania Department of Community and Economic Development affirming that the person reasonably expects to receive Earned Income and Net Profits from all sources within the Borough of less than Twelve Thousand Dollars (\$12,000) in the calendar year for which the Exemption Certificate is filed, which Exemption Certificate has attached to it a copy of all of the employee's last pay stubs or W-2 forms from employment within the Borough for the year prior to the fiscal year for which the employee is requesting to be exempted from the Tax.

LOCAL SERVICES - Emergency Services; road construction and/or maintenance; reduction of property taxes; and property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Chapter 85 Subch. F.

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

TAX - The tax imposed by this Article.

TAXPAYER - Any natural person liable for the tax levied by this Article.

§163.65. Imposition of tax. [Amended 12-07-11 by Ord. No. 1040]

163.65.1. For Local Services purposes, a Tax is hereby levied upon the privilege of engaging in an Occupation within the Borough. Each natural person who exercises such privilege for any length of time in any year shall be assessed and shall pay the Tax in the annual amount equal to the pro rata share of the annual amount of Fifty-Two dollars (\$52.00) in accordance with the provisions of this Article, and subject to the exemptions set forth in **§163.66** of this Article and the conditions set forth in **§163.65.2**.

163.65.2. If a school district located within the boundaries of the Borough exercises its right under the Local Tax Enabling Act to levy the Tax in the amount of Five Dollars (\$5.00), the amount of the Tax payable to the Borough under this Ordinance shall be reduced to Forty-Seven Dollars (\$47.00) so that no Taxpayer shall be liable to pay a Tax in excess of Fifty-Two Dollars (\$52.00) total.

§163.66. Exemptions.

The Tax levied by **§163.65** shall not be imposed upon the following persons:

163.66.1. Any person who 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 permanent disability.

163.66.2. 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 purposes of this subsection, "reserve component of the armed forces" shall mean the

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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.

163.66.3. Any natural person whose total Earned Income and Net Profits from all sources within the Borough during the taxable year is less than Twelve Thousand Dollars (\$12,000).

§163.67. Collection Through Employers.

163.67.1. Every Employer shall, within fifteen (15) days after the effective date of this Article or within 15 days of first becoming an Employer thereafter, register with the Collector the Employer's name, address and such other information as the Collector may require.

163.67.2. As to each Taxpayer who is employed in the Borough in any year in which the Tax is imposed and who is not otherwise exempt from paying the Tax, each Employer shall deduct a pro-rata share of the Tax for each payroll period in which the person is engaging in an occupation for the Employer. The pro rata share to be withheld shall be determine by dividing the combined rate of the Tax levied for the calendar year, Fifty-Two Dollars (\$52.00), by the number of payroll periods established by the Employer for the calendar year. For purposes of determining the pro rata share, the 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 levied under this Article shall be made on a payroll period basis for each payroll period. Employers shall remit payment of the Tax to the Borough no later than thirty days after the end of each quarter of a calendar year. ***[Amended 12-07-11 by Ord. No. 1040]***

163.67.3. Any Employer who discontinues business or ceases operation before December 31 of any year shall, within fifteen (15) days after discontinuing business or ceasing operation, file the return hereinabove required and pay the Tax to the Collector.

163.67.4. 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 Collector, shall be liable for such Tax in full, as though the Tax had originally been levied against such Employer. No Employer shall be liable for failure to deduct the Tax if the failure to deduct the Tax 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.

163.67.5. The Employer shall not deduct the Tax but shall maintain adequate records concerning the employees in the cases described in **§163.67.5.1** and **§163.67.5.2**.

163.67.5.1. In the case of concurrent employment, if the employee provides (a) a recent pay statement from a principal employer that includes (i) the name of the employer, and (ii) the amount of the Tax deducted and (b) a statement from the employee that (i) the pay statement is from the employee's principal employer and (ii) that the employee will notify other employers of a change in the principal place of employment within two weeks of its occurrence.

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163.67.5.2. In the case of an employee claiming the exemption set forth at **§163.66.3**, if (a) the employee has provided an Exemption Certificate to the Employer, (b) the collector has not otherwise instructed the Employer, (c) the Employer has not received notification from the person who claimed the exemption or from the Collector that the person has received Earned Income and Net Profits from all sources within the Borough equal to or in excess of Twelve Thousand Dollars (\$12,000) in that calendar year or that the person is otherwise ineligible for the Tax exemption for that calendar year, and (d) the Employer has not paid to the person Earned Income within the Borough in an amount equal to or in excess of Twelve Thousand Dollars (\$12,000) in that calendar year.

163.67.5.3. The Employer shall file with the Collector a copy of each Exemption Certificate, including attachments, received by the Employer no later than the last day of the first month of any year when such Taxpayer first becomes subject to the Tax.

163.67.5.4. Each Employer shall ensure that Exemption Certificate forms are readily available to employees at all times and shall furnish each new employee with an Exemption Certificate form at the time of hiring.

163.67.5.5. A person seeking exemption from the Tax under **§163.66.3** must annually file an Exemption Certificate with the Collector.

§163.68. Direct Payment by Taxpayers. [Amended 12-07-11 by Ord. No. 2011]

Every Taxpayer who is self-employed, or whose Tax for any other reason is not collected under **§163.67** of this Article, shall file a return on a form prescribed by the Collector within 30 (thirty) days after the end of each calendar quarter. The pro rata share of the Tax assessed on a Taxpayer for a calendar year shall be determined by dividing the rate of the Tax levied for the calendar year by four.

§163.69. 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.

§163.70. Administration and Enforcement.

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 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 collection through Employers, requirements for evidence and records, and provisions 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

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any agent designated by him all means, facilities and opportunity for the examinations hereby authorized.

§163.71. Collections.

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 on the amount of unpaid Tax and an additional penalty of one-half of one percent (1/2 of 1%) of the amount of unpaid Tax, for each month or fraction of 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 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.

§163.72. Situs of Tax for Individuals Engaged in More Than One Occupation or Employed in More Than One Political Subdivision.

The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax. In the event a person is engaged in more than one occupation, that is, concurrent employment, the priority of claim to collect the Tax shall be in the following order: (a) first, the political subdivision in which a person maintains his or her principal office or is principally employed; (b) second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision; (c) 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.

§163.73. Violations and Penalties.

163.73.1. Any person who violates a provision of this Article, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not more than \$600 for each violation, plus costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.

163.73.2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Article found to have been violated. All fines and penalties collected for violation of this Article shall be paid to the Borough Treasurer.

163.73.3. The Borough may also commence appropriate actions in equity, at law or other to prevent, restrain, correct, enjoin or abate violations of this Article.

163.73.4. The initial determination of a violation of this Article and the service of notice of violation are hereby delegated to the Borough Manager, the Collector and their

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designees and to any other officer or agent that the Borough Manager or the Borough Council shall deem appropriate.

§163.74. Refunds.

Any person who has overpaid the Tax may obtain a refund by making a written application for a refund to the Collector no later than one (1) year after payment of the Tax or three (3) years after the due date for payment of the Tax, whichever is later, and satisfactorily proves to the Collector that he is entitled to the refund. Refunds made within seventy-five (75) days of a refund request or seventy-five (75) days after the last day the Employer is required to remit the Tax to the Collector, whichever is later, shall not be subject to interest imposed under 53 Pa.C.S. §8426. A refund shall be provided only for an amount overpaid in a calendar year that exceeds one dollar (\$1).

§163.75. Receipt.

The Collector shall provide a Taxpayer a receipt of payment of the Tax upon request by the Taxpayer.

§163.76. Applicability.

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 of the Commonwealth of Pennsylvania.

§163.77. Duration.

This Article shall continue in force from year to year without annual reenactment.

§163.78. Use of funds Restricted.

The Borough's use of the funds derived from the Tax shall be limited to Local Services. No less than twenty-five percent (25%) of the funds shall be used for Emergency Services.

§163.79. Repealer.

Except as set forth hereafter, all ordinances or parts of ordinances inconsistent herewith are hereby repealed. Nothing herein shall be construed to repeal the imposition and collection of an occupation privilege tax, plus applicable penalties and interest, for all prior calendar years.