

Chapter 136

TAXATION

ARTICLE I

Earned Income and Net Profits Tax

- § 136-1. Title.
- § 136-2. Imposition of tax.
- § 136-3. Incorporation of statute.
- § 136-4. Adoption of regulations.
- § 136-5. Violations and penalties.

ARTICLE II

Local Services Tax

- § 136-6. Short title; legislative authority.
- § 136-7. Definitions.
- § 136-8. Imposition of tax; exemptions.
- § 136-9. Duty of employer to collect; return and payment.
- § 136-10. Withholding by employer.
- § 136-11. Return required; commission.
- § 136-12. Remittance to Collector; annual report.
- § 136-13. Individuals engaged in more than one occupation within Borough.
- § 136-14. Self-employed individuals.
- § 136-15. Nonresidents subject to tax.
- § 136-16. Duty of Collector; administration and enforcement of tax.
- § 136-17. Recovery of unpaid tax; interest and penalty; employer records.
- § 136-18. Violations and penalties.
- § 136-19. Interpretation; validity.
- § 136-20. (Reserved)

§ 136-21. (Reserved)

§ 136-22. (Reserved)

ARTICLE III

(Reserved)

§ 136-23. (Reserved)

§ 136-24. (Reserved)

§ 136-25. (Reserved)

§ 136-26. (Reserved)

§ 136-27. (Reserved)

ARTICLE IV

Realty Transfer Tax

- § 136-28. Title.
- § 136-29. Definitions.
- § 136-30. Imposition of tax.
- § 136-31. Exempt and excluded transactions.
- § 136-32. Properties partially within the Borough of Montoursville.
- § 136-33. Time tax due; liability for payment.
- § 136-34. Statement of value.
- § 136-35. Documentary stamp.
- § 136-36. Rules and regulations.
- § 136-37. Duty of Recorder of Deeds.
- § 136-38. Interest and penalties.
- § 136-39. Unlawful acts.
- § 136-40. Violations and penalties.
- § 136-41. Legislative authority; continuation of provisions.

[HISTORY: Adopted by the Borough Council of the Borough of Montoursville as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Earned Income and Net Profits Tax
[Adopted 12-16-2002 by Ord. No. 392¹]

§ 136-1. Title.

This article shall be known and may be cited as the "Earned Income and Net Profits Tax Ordinance."

§ 136-2. Imposition of tax.

A tax for general revenue purposes of 1/2% is hereby imposed on earned income and net profits earned by residents of the Borough and by nonresidents for work done or services performed therein earned or paid on or after January 1, of any year, and continuing for each taxable year thereafter without annual reenactment.

§ 136-3. Incorporation of statute.

The provisions of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965,² as hereinafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, are incorporated herein by reference.

§ 136-4. Adoption of regulations.

The regulations promulgated by the Municipal and School Income Tax Office, as amended, are hereby adopted.³ All subsequent amendments to the Municipal and School Income Tax Office regulations may be adopted from time to time by resolution of the Borough Council.

§ 136-5. Violations and penalties.

- A. Any person who fails, neglects or refuses to make any declaration or return required hereunder, 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 examination of 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

1. Editor's Note: This ordinance superseded former Art. I, Earned Income Tax, adopted 1-3-1967 by Ord. No. 204, as amended.

2. Editor's Note: See 53 P.S. § 6901 et seq.

3. Editor's Note: Said regulations are on file in the Borough offices.

to avoid the full disclosure of the amount of his 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 therefor, before any Magisterial District Judge, or court of competent jurisdiction, be sentenced to pay a fine in the amount authorized by the relevant provisions of Act 32 of 2008, which currently are found in 53 P.S. § 6924.509(j), and which currently provide for a fine of not more than \$2,500 for each offense and reasonable costs. In default of payment of said fine and costs, the person convicted may be sentenced to imprisonment for the period authorized by the relevant provisions of Act 32 of 2008, which currently are found in 53 P.S. § 6924.509(j), and which currently provide for imprisonment for a period of not more than six months. All fines and penalties collected by any Magisterial District Judge or court of competent jurisdiction shall be paid to the Officer of the Borough of Montoursville, to be credited to the account of the Borough of Montoursville. If the fine and imprisonment provisions of Act 32 of 2008 are amended, this article shall be deemed amended to reflect those revisions upon the effective date of the Act 32 amendment. [Amended 12-1-2014 by Ord. No. 461]

- B. (Reserved)*
- C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section hereof
- D. The failure of any person to receive or procure forms required for making the declaration or returns required hereunder shall not excuse him from making such declaration or return.

ARTICLE II

Local Services Tax

[Adopted 12-19-1966 by Ord. No. 203; amended in its entirety 12-3-2007 by Ord. No. 427^s]

§ 136-6. Short title; legislative authority.

This article shall be known and may be cited as the "Montoursville Borough Local Services Tax Ordinance." This article is enacted under the authority of the Local Tax Enabling Act, 53 P.S. § 6901 et seq., and continues and redesignates the emergency and municipal services tax as the local services tax pursuant to Act No. 7 of 2007.

§ 136-7. Definitions.

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

-
- 4. Editor's Note: Former Subsection B, providing a penalty for any person who divulges any confidential information, was repealed 12-1-2014 by Ord. No. 461.
 - 5. Editor's Note: This ordinance also provided that the local services tax shall be levied beginning 1-1-2008.

BOROUGH OF MONTOURSVILLE — The area within the corporate limits of the Borough of Montoursville.

COLLECTOR — The person or agency appointed from time to time by the Montoursville Borough Council to assess and collect the tax imposed under, and to administer the provisions of, this article.

EMPLOYER — An individual, partnership, association, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.

FISCAL YEAR — The twelve-month period beginning January 1, 2008, and ending December 31, 2008, and each 12 months thereafter.

HE, HIS, or HIM — Indicates the singular and plural number as well as male, female and neuter genders.

INDIVIDUAL — Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Borough of Montoursville.

OCCUPATION — Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the Borough of Montoursville for which compensation is charged or received, whether by means of salary, wages, commissions or fees for services rendered.

TAX — The local services tax.

§ 136-8. Imposition of tax; exemptions.

A. Imposition of tax. [Amended 11-17-2008 by Ord. No. 432⁶; 12-1-2014 by Ord. No. 463]

- (1) Beginning January 1, 2015, the Borough of Montoursville hereby levies and imposes on each individual engaged in an occupation within its corporate limits during the fiscal year of 2015 and each fiscal year thereafter a local services tax. For the fiscal year 2015, said tax shall be in the amount of \$52 per individual per annum and shall be collected for the sole benefit of the Borough of Montoursville. This tax does not include any occupational privilege tax or local services tax levied and collected separately by the Montoursville Area School District.
- (2) This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough, and this tax shall continue in force, without annual reenactment, unless the rate of the tax is subsequently changed or this article is repealed. This tax shall be collected in accordance with this article and the Local Tax Enabling Act of the Commonwealth of Pennsylvania, as amended.⁷

6. Editor's Note: This ordinance provided an effective date of 1-1-2009.

7. Editor's Note: See 53 P.S. § 6901 et seq.

- B. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough, and this tax shall continue in force, without annual reenactment, unless the rate of the tax is subsequently changed or this article is repealed.
- C. Exemptions. The following individuals shall be exempt from the local services tax:
- (1) Persons whose earned income and net profits from all sources within the Borough is less than \$12,000 per annum for the calendar year in which the tax is levied.
 - (2) 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, a 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 successors to be a total, one-hundred-percent permanent disability.
 - (3) 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 United States Army Reserve, United States Navy Reserve, United States Marine Corps



- (2) 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, a 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 successors to be a total, one-hundred-percent permanent disability.
- (3) 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 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.

D. Exemption certificate.

- (1) Any person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the Borough and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of less than \$12,000 in the calendar year for which the exemption certificate is filed. 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 Borough for the year prior to the fiscal year for which the employee is requesting to be exempted from the local services tax. Upon receipt of the exemption certificate the Borough shall provide a copy of the exemption certificate to the Collector. Upon receipt of the exemption certificate by the employer and until otherwise instructed by the Borough, 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.
- (2) With respect to a person who claimed an exemption for a given calendar year from the local services tax upon notification to an employer by the person or by the Borough that the person has received earned income and net profits from all sources within the Borough equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the Borough in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person.

§ 136-9. Duty of employer to collect; return and payment.

Each employer who engages in business within the Borough of Montoursville is hereby charged with the duty of collecting, from each of his employees engaged by him and performing for him within the Borough of Montoursville, this tax and making a return and payment thereof to the Collector.

§ 136-10. Withholding by employer.

- A. Each employer is hereby authorized to deduct the tax from each employee in his employ, whether said employee is paid salary, wages or commission and whether or not part or all of such services are performed within the Borough.
- B. A person subject to the local services tax shall be assessed a pro rata share of the tax for each payroll 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 local services taxes 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 1/100 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.

- C. In the case of concurrent employment, however, the 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 placement of employment within two weeks of its occurrence.
- D. Taxes deducted from wages by an employer shall at all times be and remain the property of this Borough and shall constitute a trust fund in the employer's hands until remitted to the Collector. Deduction of taxes from wages shall, as between the employee and the Borough, constitute payment of the tax by the employee, regardless of any insolvency or failure to remit on the employer's part.

§ 136-11. Return required; commission.

- A. Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied by the Collector.
- B. Each employer, in filing this return and making payment of the tax withheld from his employees, shall be entitled to retain a commission calculated at the rate of 2% of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth.

§ 136-12. Remittance to Collector; annual report.

Each employer shall remit the taxes collected to the Collector within 30 days of the end of each quarter. The employer shall submit an annual report detailing the number of employees, names of the employees and the amount collected within 30 days of the end of each calendar year.

§ 136-13. Individuals engaged in more than one occupation within Borough.

Each individual who shall have more than one occupation within the Borough shall be subject to the payment of this tax on his principal occupation, and his principal employer shall deduct this tax and deliver to him evidence of deductions on a form to be furnished to the employer by the Borough, which form shall be evidence of deductions having been made and, when presented to any other employer, shall be authority for such employer to not deduct this tax from the employee's wages, but to include such employee on his return by setting forth his name, address and the name and address of the employer who deducted this tax.

§ 136-14. 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 shall be required to comply with this article on June 15 of the fiscal year or as soon thereafter as he engages in an occupation.

§ 136-15. Nonresidents subject to tax.

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

§ 136-16. Duty of Collector; administration and enforcement of tax.

- A. It shall be the duty of the Collector to accept and receive payments of this tax and to 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.
- B. The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of the payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article 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 Lycoming County as in other cases provided.

§ 136-17. Recovery of unpaid tax; interest and penalty; employer records.

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Borough may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.
- B. If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax shall be calculated beginning with the due date of said tax and an additional penalty of 1/2 of 1% of the amount of the unpaid tax shall be added and collected for each month or fraction thereof during which the tax remains unpaid. Where suit is brought for the recovery of this tax, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection, including attorney's fees.

- C. The Collector or his duly authorized representative or agent 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 or his duly authorized representative or agent the means, facilities and opportunity for such examinations.

§ 136-18. Violations and penalties.

- A. Any person who makes any false or untrue statement on any return, exemption certificate or document required by this article, or who refuses inspection of his books, records or accounts in his custody and control setting forth the number of employees subject to this tax who are in his employment, or whoever fails or refuses to file any return commits a violation of this article. If the Borough Council or the Collector determines that a person has committed or permitted the commission of a violation of this article, the Borough may institute summary criminal proceedings and/or may seek equitable relief.
- B. In the event summary criminal proceedings are instituted, the fine for the first offense shall be no less than \$100 and not more than \$600. The fine for a second offense shall be no less than \$300 and not more than \$600. The fine for a third or greater offense shall be not less than \$500 and not more than \$600.
- C. Each day or portion thereof in which a violation exists shall be considered a separate violation. Each section of this article which is violated shall be considered a separate violation.
- D. The amount of any fine imposed by a District Judge or a court shall be in addition to any other fine which may be imposed under any other provisions of the Code of Ordinances of the Borough or under any statute. In default of payment of any fine, such person shall be liable to imprisonment for not more than 30 days.
- E. The action to enforce this article may be instituted against any person in charge of the business or any employer who shall have failed or refused to file a return required by this article.

§ 136-19. Interpretation; validity.

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

§ 136-20. (Reserved)

§ 136-21. (Reserved)

§ 136-22. (Reserved)

ARTICLE III
(Reserved) ⁵

§ 136-23. (Reserved)

§ 136-24. (Reserved)

§ 136-25. (Reserved)

§ 136-26. (Reserved)

§ 136-27. (Reserved)

ARTICLE IV
Realty Transfer Tax
[Adopted 3-3-1997 by Ord. No. 370]

§ 136-28. Title.

This Article shall be known and may be cited as the "Montoursville Realty Transfer Tax Ordinance."

§ 136-29. Definitions.

The following words, when used in this article, shall have the meanings ascribed to them in this section, except in those instances where the context indicates a different meaning:

ASSOCIATION — A partnership, limit partnership or any other form of unincorporated enterprise, owned or conducted by two or more persons.

BOROUGH OF MONTOURSVILLE — The area within the corporate limits of the Borough of Montoursville, Lycoming County, Pennsylvania.

COLLECTOR — The person authorized and empowered from time to time, by the Council of the Borough of Montoursville to administer and enforce this article.

5. Editor's Note: Former Art. III, Per Capita Tax, adopted 2-21-1966 by Ord. No. 199, as amended, was repealed 1-16-2006 by Ord. No. 411.

CORPORATION — A corporation or joint-stock association organized under the laws of this commonwealth, the United States or any other state, territory or foreign country or dependency, including but not limited to banking institutions.

DOCUMENT — Any deed, instrument or writing which conveys, transfers, devises, vests, confirms or evidences any transfer or devise of title to real estate within the Borough of Montoursville or any interest therein, but does not include any documents which evidences any transfer or conveyance specifically exempt under the Pennsylvania Real Transfer Tax Act, Act of March 4, 1971, P.L. 6,⁶ and the Act of May 3, 1991, P.L. 36, as amended,⁷ or as are specifically excepted or excluded under the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, as amended.⁸

PERSON — Every natural person, association or corporation. Whenever used in any clause prescribing or imposing a fine or imprisonment, or both, the term person, as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

VALUE — In the case of any document granting, bargaining, selling or otherwise conveying any land, tenement or hereditament, or interest therein, the amount of the actual consideration therefor, including liens or other encumbrances thereon, and ground rents, or a commensurate part of the liens or other encumbrances thereon, and ground rents, where such liens or other encumbrances and ground rents also encumber or are charged against other lands, tenements or hereditaments, provided that where such documents set forth a small or nominal consideration, the value thereof shall be determined from the price set forth in, or actual consideration for, the contract of sale, or, in the case of a gift or any other document without consideration, from the actual monetary worth of the property granted, bargained, sold or otherwise conveyed, which in either event shall not be less than the amount of the highest assessment for such lands, tenements or hereditaments for local law purposes.

§ 136-30. Imposition of tax.

For each year, beginning on or after March 1, 1971, a tax is hereby imposed on each transfer of real property situated within the Borough of Montoursville or any interest therein, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers take place. On and after the effective date of this article, every person who accepts delivery of any document or on whose behalf delivery of any document is accepted shall be subject to pay a tax of 1/2 of 1% of the value of the property represented by such document, which tax shall be payable at the time of the acceptance of delivery of the document. Where any document is delivered to the commonwealth, to a political subdivision or to any authority created by the commonwealth or a political subdivision, the person by whom the document was made, executed, issued or delivered shall be subject to pay the tax, unless the transfer is between such governmental agencies, in which case no tax shall be paid. Where any lands, tenements or hereditaments are situate partly within and partly without the boundaries of the Borough of Montoursville, the

6. Editor's Note: See 72 P.S. § 8101-C

7. Editor's Note: See 72 P.S. § 7330.

8. Editor's Note: See 53 P.S. § 6901 et seq.

tax shall be paid on the value of the portion of the lands, tenements or hereditaments situate within the Borough of Montoursville.

§ 136-31. Exempt and excluded transactions.

Those transactions which are specifically exempt under the Pennsylvania Realty Transfer Tax Act, Act of March 4, 1971, P.L. 6, and the Act of May 5, 1991, P.L. 36, as amended,⁹ or as are specifically excepted or excluded under the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, as amended.¹⁰

§ 136-32. Properties partially within the Borough of Montoursville.

Where land lying partly within the boundaries of the Borough of Montoursville and partly without the boundaries is transferred, the tax herein imposed shall be calculated upon such portion of the value as shall be represented by the portion of such land lying within the boundaries of the Borough of Montoursville. Such apportionment of value shall be evidenced by an affidavit or certificate of value hereinafter provided for, but shall in no event be less than the highest assessed valuation for local tax purposes placed upon the same in the assessment of property within the Borough of Montoursville.

§ 136-33. Time tax due; liability for payment.

The tax imposed hereby shall be due and payable at the time of the transaction; thereafter the transferee named in the document shall remain liable for any unpaid realty transfer taxes imposed by virtue of this article.

§ 136-34. Statement of value.

Where the document does not set forth the true, full and complete value thereof, the value shall be as set forth in the affidavit accompanying the document prepared for the purposes of calculating the realty transfer tax payable to the Commonwealth of Pennsylvania, in accordance with the Act of December 27, 1951, P.L. 1742, or amendments or reenactments thereof.

- A. In all cases, except deeds without consideration and gifts where the full consideration for the document is not set forth in the deed, a certified copy of the affidavit prepared for the purpose of determining the real estate transfer tax payable to the Commonwealth of Pennsylvania shall be filed in the office of the Borough Treasurer at the time the tax is paid.
- B. In all cases where a document represents a transfer without consideration, including but not limited to gifts, documents in connection with merger or consolidation of corporations and documents conveying real estate from stockholders to corporations, deeds conveying realty in connection with the conversion of partnerships into

9. Editor's Note: See 72 P.S. § 8101-C et seq.

10. Editor's Note: See 53 P.S. § 6901 et seq.

corporations or connection with the documents distributing realty in connection with the dissolution or liquidation of corporations, a certified copy of the affidavit prepared for the purpose of determining the real estate transfer tax payable to the Commonwealth of Pennsylvania and setting forth the actual monetary worth of the realty conveyed shall be filed in the office of the Treasurer at the time the tax is paid.

- C. Whenever the taxability of any transfer of real property or the amount of the tax depends upon the relationship of the parties to the transaction or upon any other facts not recited in the document, the Borough Treasurer may require that such facts be established by affidavit.

§ 136-35. Documentary stamp.

Payment of the tax imposed by this article shall be evidenced by the affixing of a documentary stamp to every document by the person making, executing, delivering or presenting for recording such document. The Realty Transfer Tax Collector or his agent, using, imprinting or affixing such stamp, shall indelibly write thereon the initials of his name and the date of payment.

§ 136-36. Rules and regulations.

The Secretary of the Borough of Montoursville shall be the collector of the tax imposed by this article, and he or his agent is hereby charged with the administration and enforcement of this article, and he is hereby authorized and empowered to prescribe, adopt and enforce rules and regulations concerning the payment and receipt of such taxes and any other matter pertaining to the administration and enforcement of the provisions of this article.

§ 136-37. Duty of Recorder of Deeds.

The Recorder of Deeds of Lycoming County, or any of his deputies, shall be the agent of the Realty Transfer Tax Collector for the collection of the tax at the time any document, as hereinbefore defined, is presented for recording in the office of the Recorder of Deeds of Lycoming County. The Recorder of Deeds shall receive a commission of 1% upon the amount of tax collected by him, which 1% shall be deducted before remitting monthly to the Realty Transfer Tax Collector the Recorder of Deed's statement and remittance of taxes collected under and by virtue of this article.

§ 136-38. Interest and penalties.

- A. If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax and an additional penalty of 1/2 of 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 the tax, the person liable thereafter shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed, including reasonable attorney's fees.

- B. This tax, together with interest, penalties and costs, where due and unpaid, shall become a lien upon the lands, tenements or hereditaments, or any interest therein, which are described in a document upon which this tax is due and shall be collected as other taxes are collected. The Borough Solicitor is further authorized to file a municipal claim or tax claim in the Court of Common Pleas of Lycoming County for the collection of any unpaid tax under this article.

§ 136-39. Unlawful acts.

It shall be unlawful for any person to:

- A. Make, execute, issue, deliver or accept or cause to be made, executed, issued, delivered or accepted any document without the full amount of the tax thereon being duly paid.
- B. Fraudulently cut, tear or remove from a document any documentary stamp or other evidence of payment.
- C. Fraudulently affix to any document upon which a tax is imposed by this article any documentary stamp or other evidence of payment which has been cut, torn or removed from any other document upon which a 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, dye plate or other article.
- D. Willfully remove or alter the cancellation marks of any documentary stamp or receipt 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.
- E. Knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which a tax is imposed by this article, provided that the possession of such stamp shall be prima facie evidence of an intent to violate the provisions of this subsection.
- F. Knowingly or willfully prepare, keep, sell, offer for sale or have in his possession any forged or counterfeited documentary stamps.
- G. Fail, neglect or refuse to comply with or violate the rules and regulations adopted by the Borough Collector under provision of this article.

§ 136-40. Violations and penalties. [Amended 3-3-1997 by Ord. No. 370]

Any person who violates any of the provisions of this article shall be guilty of a misdemeanor and shall, upon conviction thereof before any District Justice, be subject to the penalty as set forth in Chapter 1, General Provisions, Article II, General Penalty. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this article.

§ 136-41. Legislative authority; continuation of provisions.

This article is enacted under the authority of the Local Tax Enabling Act of December 31, 1965, P.L. 1257,¹¹ and shall continue in force on a calendar-year basis without annual reenactment unless the rate of the tax is substantially changed.

11. Editor's Note: See 53 P.S. § 6901 et seq.

ARTICLE IV
Realty Transfer Tax
[Adopted at time of adoption of Code¹²]

§ 136-28. Title.

This Article shall be known and may be cited as the "Montoursville Realty Transfer Tax Ordinance."

§ 136-29. Definitions.

The following words, when used in this Article, shall have the meanings ascribed to them in this section, except in those instances where the context indicates a different meaning:

ASSOCIATION — A partnership, limit partnership or any other form of unincorporated enterprise, owned or conducted by two (2) or more persons.

BOROUGH OF MONTOURSVILLE — The area within the corporate limits of the Borough of Montoursville, Lycoming County, Pennsylvania.

COLLECTOR — The person authorized and empowered from time to time, by the Council of the Borough of Montoursville to administer and enforce this Article.

CORPORATION — A corporation or joint-stock association organized under the laws of this commonwealth, the United States or any other state, territory or foreign country or dependency, including but not limited to banking institutions.

DOCUMENT — Any deed, instrument or writing which conveys, transfers, devises, vests, confirms or evidences any transfer or devise of title to real estate within the Borough of Montoursville or any interest therein, but does not include any documents which evidences any transfer or conveyance specifically exempt under the Pennsylvania Real Transfer Tax Act, Act of March 4, 1971, P.L. 6,¹³ and the Act of May 3, 1991, P.L. 36, as amended,¹⁴ or as are specifically excepted or excluded under the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, as amended.¹⁵

PERSON — Every natural person, association or corporation. Whenever used in any clause prescribing or imposing a fine or imprisonment, or both, the term person, as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

VALUE — In the case of any document granting, bargaining, selling or otherwise conveying any land, tenement or hereditament, or interest therein, the amount of the actual consideration therefor, including liens or other encumbrances thereon, and ground rents, or a commensurate part of the liens or other encumbrances thereon, and ground rents, where

¹² Editor's Note: See Ch. 1, General Provisions, Art. I.

¹³ Editor's Note: See 72 P.S. § 8101-C

¹⁴ Editor's Note: See 72 P.S. § 7330.

¹⁵ Editor's Note: See 53 P.S. § 6901 et seq.

such liens or other encumbrances and ground rents also encumber or are charged against other lands, tenements or hereditaments, provided that where such documents set forth a small or nominal consideration, the value thereof shall be determined from the price set forth in, or actual consideration for, the contract of sale, or, in the case of a gift or any other document without consideration, from the actual monetary worth of the property granted, bargained, sold or otherwise conveyed, which in either event shall not be less than the amount of the highest assessment for such lands, tenements or hereditaments for local law purposes.

§ 136-30. Imposition of tax.

For each year, beginning on or after March 1, 1971, a tax is hereby imposed on each transfer of real property situated within the Borough of Montoursville or any interest therein, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers take place. On and after the effective date of this Article, every person who accepts delivery of any document or on whose behalf delivery of any document is accepted shall be subject to pay a tax of one-half of one percent ($\frac{1}{2}$ of 1%) of the value of the property represented by such document, which tax shall be payable at the time of the acceptance of delivery of the document. Where any document is delivered to the commonwealth, to a political subdivision or to any authority created by the commonwealth or a political subdivision, the person by whom the document was made, executed, issued or delivered shall be subject to pay the tax, unless the transfer is between such governmental agencies, in which case no tax shall be paid. Where any lands, tenements or hereditaments are situate partly within and partly without the boundaries of the Borough of Montoursville, the tax shall be paid on the value of the portion of the lands, tenements or hereditaments situate within the Borough of Montoursville.

§ 136-31. Exempt and excluded transactions.

Those transactions which are specifically exempt under the Pennsylvania Realty Transfer Tax Act, Act of March 4, 1971, P.L. 6, and the Act of May 5, 1991, P.L. 36, as amended,¹⁶ or as are specifically excepted or excluded under the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, as amended.¹⁷

§ 136-32. Properties partially within the Borough of Montoursville.

Where land lying partly within the boundaries of the Borough of Montoursville and partly without the boundaries is transferred, the tax herein imposed shall be calculated upon such portion of the value as shall be represented by the portion of such land lying within the boundaries of the Borough of Montoursville. Such apportionment of value shall be evidenced by an affidavit or certificate of value hereinafter provided for, but shall in no event be less than

¹⁶ Editor's Note: See 72 P.S. § 8101-C et seq.

¹⁷ Editor's Note: See 53 P.S. § 6901 et seq.

the highest assessed valuation for local tax purposes placed upon the same in the assessment of property within the Borough of Montoursville.

§ 136-33. Time tax due; liability for payment.

The tax imposed hereby shall be due and payable at the time of the transaction; thereafter the transferee named in the document shall remain liable for any unpaid realty transfer taxes imposed by virtue of this Article.

§ 136-34. Statement of value.

Where the document does not set forth the true, full and complete value thereof, the value shall be as set forth in the affidavit accompanying the document prepared for the purposes of calculating the realty transfer tax payable to the Commonwealth of Pennsylvania, in accordance with the Act of December 27, 1951, P.L. 1742, or amendments or reenactments thereof.

- A. In all cases, except deeds without consideration and gifts where the full consideration for the document is not set forth in the deed, a certified copy of the affidavit prepared for the purpose of determining the real estate transfer tax payable to the Commonwealth of Pennsylvania shall be filed in the office of the Borough Treasurer at the time the tax is paid.
- B. In all cases where a document represents a transfer without consideration, including but not limited to gifts, documents in connection with merger or consolidation of corporations and documents conveying real estate from stockholders to corporations, deeds conveying realty in connection with the conversion of partnerships into corporations or connection with the documents distributing realty in connection with the dissolution or liquidation of corporations, a certified copy of the affidavit prepared for the purpose of determining the real estate transfer tax payable to the Commonwealth of Pennsylvania and setting forth the actual monetary worth of the realty conveyed shall be filed in the office of the Treasurer at the time the tax is paid.
- C. Whenever the taxability of any transfer of real property or the amount of the tax depends upon the relationship of the parties to the transaction or upon any other facts not recited in the document, the Borough Treasurer may require that such facts be established by affidavit.

§ 136-35. Documentary stamp.

Payment of the tax imposed by this Article shall be evidenced by the affixing of a documentary stamp to every document by the person making, executing, delivering or presenting for recording such document. The Realty Transfer Tax Collector or his agent, using, imprinting or affixing such stamp, shall indelibly write thereon the initials of his name and the date of payment.

§ 136-36. Rules and regulations.

The Secretary of the Borough of Montoursville shall be the collector of the tax imposed by this Article, and he or his agent is hereby charged with the administration and enforcement of this Article, and he is hereby authorized and empowered to prescribe, adopt and enforce rules and regulations concerning the payment and receipt of such taxes and any other matter pertaining to the administration and enforcement of the provisions of this Article.

§ 136-37. Duty of Recorder of Deeds.

The Recorder of Deeds of Lycoming County, or any of his deputies, shall be the agent of the Realty Transfer Tax Collector for the collection of the tax at the time any document, as hereinbefore defined, is presented for recording in the office of the Recorder of Deeds of Lycoming County. The Recorder of Deeds shall receive a commission of one percent (1%) upon the amount of tax collected by him, which one percent (1%) shall be deducted before remitting monthly to the Realty Transfer Tax Collector the Recorder of Deed's statement and remittance of taxes collected under and by virtue of this Article.

§ 136-38. Interest and penalties.

- A. If for any reason the tax is not paid when due, interest at the rate of six per centum (6%) per annum on the amount of said tax and an additional penalty of one-half of one percent ($\frac{1}{2}$ 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 the tax, the person liable thereafter shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed, including reasonable attorney's fees.
- B. This tax, together with interest, penalties and costs, where due and unpaid, shall become a lien upon the lands, tenements or hereditaments, or any interest therein, which are described in a document upon which this tax is due and shall be collected as other taxes are collected. The Borough Solicitor is further authorized to file a municipal claim or tax claim in the Court of Common Pleas of Lycoming County for the collection of any unpaid tax under this Article.

§ 136-39. Unlawful acts.

It shall be unlawful for any person to:

- A. Make, execute, issue, deliver or accept or cause to be made, executed, issued, delivered or accepted any document without the full amount of the tax thereon being duly paid.
- B. Fraudulently cut, tear or remove from a document any documentary stamp or other evidence of payment.
- C. Fraudulently affix to any document upon which a tax is imposed by this Article any documentary stamp or other evidence of payment which has been cut, torn or removed from any other document upon which a 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, dye plate or other article.

- D. Willfully remove or alter the cancellation marks of any documentary stamp or receipt 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.
- E. Knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which a tax is imposed by this Article, provided that the possession of such stamp shall be prima facie evidence of an intent to violate the provisions of this subsection.
- F. Knowingly or willfully prepare, keep, sell, offer for sale or have in his possession any forged or counterfeited documentary stamps.
- G. Fail, neglect or refuse to comply with or violate the rules and regulations adopted by the Borough Collector under provision of this Article.

§ 136-40. Violations and penalties.¹⁸

Any person who violates any of the provisions of this Article shall be guilty of a misdemeanor and shall, upon conviction thereof before any District Justice, be subject to the penalty as set forth in Chapter 1, General Provisions, Article II, General Penalty. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Article.

§ 136-41. Legislative authority; continuation of provisions.

This Article is enacted under the authority of the Local Tax Enabling Act of December 31, 1965, P.L. 1257,¹⁹ and shall continue in force on a calendar-year basis without annual reenactment unless the rate of the tax is substantially changed.

¹⁸ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

¹⁹ Editor's Note: See 53 P.S. § 6901 et seq.

