

Chapter 154 TAXATION

ARTICLE I Earned Income Tax

- § 154-1. Definitions.
- § 154-2. Imposition of tax.
- § 154-3. Declaration and payment of tax.
- § 154-4. Collection at source.
- § 154-5. Powers and duties of Income Tax Officer; bond.
- § 154-6. Compensation of Income Tax Officer.
- § 154-7. Suit for collection of tax.
- § 154-8. Interest and penalties.
- § 154-9. Violations and penalties.
- § 154-10. Payment of refunds.
- § 154-11. Applicability.
- § 154-12. Title and authority.

ARTICLE II Occupational Privilege Tax

- § 154-13. Definitions.
- § 154-14. Tax imposed.
- § 154-15. Amount of tax.
- § 154-16. Duty of employers.
- § 154-17. Returns.
- § 154-18. Dates for determining tax liability and payment.
- § 154-19. Individuals engaged in more than one occupation.
- § 154-20. Self-employed individuals.
- § 154-21. Individuals residing beyond corporate limits.
- § 154-22. Administration of tax.
- § 154-23. Suits for collection.
- § 154-24. Violations and penalties.
- § 154-25. Construal of provisions.

- § 154-26. When effective.

ARTICLE III Per Capita Tax

- § 154-27. Rate of tax levied.
- § 154-28. Collection; entry in tax duplicate records.
- § 154-29. Tax Collector's bond.
- § 154-30. Compensation for collection and expense.
- § 154-31. Tax Collector's notice.
- § 154-32. Authority to add names to tax duplicates.
- § 154-33. Collection by distress; sale.
- § 154-34. Collection of delinquent per capita taxes from employers.
- § 154-35. Notice to delinquent taxpayers.
- § 154-36. Remittance by Tax Collector.
- § 154-37. Intent; powers and duties of Tax Collector.
- § 154-38. Discount, interest and penalties.
- § 154-39. Exemptions.

ARTICLE IV Realty Transfer Tax

- § 154-40. Imposition of tax.
- § 154-41. Definitions.
- § 154-42. Tax levied; interest.
- § 154-43. Exemptions.
- § 154-44. Excluded transactions.
- § 154-45. Documents relating to associations or corporations and members, partners, stockholders or shareholders thereof.
- § 154-46. Acquired companies.

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| § 154-47. Credits against tax. | § 154-55. Civil remedies. |
| § 154-48. Extension of lease. | § 154-56. Liens. |
| § 154-49. Proceeds of judicial sale. | § 154-57. Violations and penalties. |
| § 154-50. Stamps. | § 154-58. Lands lying partly within other municipalities. |
| § 154-51. Duties of Recorder of Deeds. | § 154-59. Recovery of taxes. |
| § 154-52. Rules and regulations. | § 154-60. Enforcement. |
| § 154-53. Failure to affix stamps. | |
| § 154-54. Statement of value. | |

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

ARTICLE I

Earned Income Tax

[Adopted 1-12-1970 as Ch. 89 of the 1970 Code]

§ 154-1. Definitions.

- A. Terms defined. The following terms, words and phrases shall have, for the purpose of this article, the meanings specified in Section 13, entitled "Definitions," of the Local Tax Enabling Act of 1965:¹ association, business, corporation, current year, domicile, earned income, Income Tax Officer or Officer, employer, net profits, nonresidents, person or individual, preceding year, resident, succeeding year and taxpayer.
- B. Word usage. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

§ 154-2. Imposition of tax.

- A. A tax for general revenue purposes of 1% is hereby imposed on the following:
- (1) Earned income earned on and after January 1, 1968, by residents of the Borough of Berwick.
 - (2) Earned income earned on and after January 1, 1968, by nonresidents of the Borough of Berwick in the Borough of Berwick.
 - (3) Net profits earned on and after January 1, 1968, by residents of the Borough of Berwick.
 - (4) Net profits earned on and after January 1, 1968, in the Borough of Berwick by nonresidents of the Borough of Berwick.
- B. The tax levied under Subsection A(1) and (2) above shall relate to but is not limited to and is imposed upon earned income paid by an employer or on his behalf to a person who is

¹ Editor's Note: See 53 P.S. § 6913.

employed by him. The tax levied under Subsection A(3) and (4) above shall relate to and be imposed on the net profits of any business, profession or other activity carried on by any person or persons.

- C. Every corporation which is subject to the Pennsylvania corporate net income tax or exempt from the Pennsylvania corporate net income tax and every foreign corporation which is subject to the Pennsylvania franchise tax or exempt from the Pennsylvania franchise tax shall be exempt from the tax imposed by this article.
- D. The tax levied by this article shall be applicable to earned income and to net profits earned beginning January 1, 1968, which are subject to this tax, and shall continue on a calendar-year basis. The first year shall end December 31, 1968. However, the tax shall remain effective for each full calendar year thereafter until the same is repealed.

§ 154-3. Declaration and payment of tax.

A. Net profits.

- (1) Every taxpayer making net profits shall, on or before April 15 of the current 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 current year, and pay to the Officer in four equal quarterly installments the tax due 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.
- (2) Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration hereinabove required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, 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.
- (3) Every taxpayer making net profits 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 current year and ending December 31 of the current 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.
- (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.
- (5) The Officer may be 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.

- (6) Every taxpayer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

B. Earned income.

- (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 current year and ending December 31 of the current year, the total amount of tax due 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.
- (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:
 - (a) Make and file with the Officer, on a form prescribed or approved by the Officer, an annual return setting forth the aggregate amount of earned income not subject to withholding from him during the period beginning January 1 and ending December 31 of the current year and such other information as the Officer may require, and pay to the Officer the amount of tax shown as due thereon on or before April 15 of the succeeding year; or
 - (b) Make and file with the Officer, on a form prescribed or approved by the Officer, a quarterly return on or before April 30 of the current year, July 31 of the current year, October 31 of the current 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 period ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current 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.

§ 154-4. Collection at source.

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the Borough of Berwick who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within 15 days after becoming an employer, register with the Officer his name and address and such other information as the Officer may require.
- B. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the Borough of Berwick who employs one 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 by the article on the earned income due his

employee or employees, and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current 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 period ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current 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.

- C. Any employer who for two of the preceding four 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.
- D. On or before February 28 of the succeeding year, every employer shall file with the Officer:
 - (1) 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 current year and ending December 31 of the current year.
 - (2) A return withholding statement for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current 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 such employee and the amount of tax paid to the Officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.
- E. Every employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.
- F. Except as otherwise provided in § 154-9, every employer who willfully or negligently fails or omits to make the deductions required by this section 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.
- G. The failure or omission of any employer to make the deductions required by this section 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.
- H. If an employer makes a deduction for the tax as required by this section, all amounts so deducted shall constitute funds held by such employer for the account of the Borough of Berwick as the beneficial owner thereof.

§ 154-5. Powers and duties of Income Tax Officer; bond.

- A. 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.
- B. Each Officer, before entering upon his official duties, shall give and acknowledge a bond to the Borough of Berwick which shall be conditioned and shall provide for all rights and obligations on the respective parties as set forth in the Act of 1965, Act No. 511, P.L., as amended.² Said bond shall be delivered to the Secretary of the Borough of Berwick and maintained with the borough records or at such place as is required by law.
- C. The Officer is hereby charged with the administration and enforcement of the provisions of this article and 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 cases of overpayment, for any period of time not to exceed six years subsequent to the date of payment of the sums 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 resolution by the Borough of Berwick. A copy of such rules and regulations currently in force shall be available for public inspection.
- D. 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.
- E. 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.
- F. 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.
- G. Any person aggrieved by any action of the Income Tax Officer shall have the right of appeal as provided by law.
- H. The Officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

² Editor's Note: See 53 P.S. § 6913.

§ 154-6. Compensation of Income Tax Officer.

The Income Tax Officer shall receive such compensation for his services and expenses as shall be determined and fixed by the Council of the Borough of Berwick and as shall be permitted by law. In fixing such compensation, said Council may, pursuant to a resolution, enter into such written agreements for such compensation as shall be deemed necessary.

§ 154-7. Suit for collection of tax.

- A. The Officer may sue in the name of the Borough of Berwick for the recovery of taxes due and unpaid under this article.
- B. Any suit brought to recover the tax imposed by this article shall be begun within three years after such tax is due or within three 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:
 - (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.
 - (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.
 - (3) In the case of substantial understatement of tax liability of 25% or more and no fraud, suit shall be begun within six years.
 - (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.
 - (5) This section shall not be construed to limit the Borough of Berwick from recovering delinquent taxes by any other means provided by this article.
- C. The Officer may sue for recovery of an erroneous refund, provided that such suit is begun two years after making such refund, except that the suit may be brought within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

§ 154-8. Interest and penalties.

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 $\frac{1}{2}$ 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 any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

§ 154-9. Violations and penalties.

- A. Any person who fails, neglects or refuses to make any declaration or return required by 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, be sentenced to pay a fine of not more than \$500 for each offense and costs, and in default of payment of said fine and costs, be imprisoned for a period not exceeding 30 days.
- B. Any person who divulges any information which is confidential under the provisions of this article shall, upon conviction thereof before any District Justice of Columbia County or of the Columbia County Courts in the event of an appeal, be sentenced to pay a fine of not more than \$500 for each offense and costs, and in default of payment of said fine and costs, be imprisoned for a period not exceeding 30 days.
- C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this article.
- D. 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.

§ 154-10. Payment of refunds.

The Income Tax Officer is hereby authorized to accept payments of the amount of tax claimed by the borough in any case where any person disputes the validity of the amount of the borough's claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Income Tax Officer, the amount of the overpayment shall be refunded to the person who paid.

§ 154-11. Applicability.

- A. The tax imposed by this article shall not apply:
 - (1) To any person as to whom it is beyond the legal power of the Borough of Berwick to impose the tax provided for under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.
 - (2) To the net profits of any institution or organization operated for public, religious, educational or charitable purposes, or to an institution or organization not organized or operated for private profit, or to a trust of a foundation established for any of the said purposes.

- B. This section shall not be construed to exempt any person who is an employer from the duty of collecting the tax at the source from his employees and paying the amount collected to the Borough of Berwick under the provisions of § 154-4 of this article.

§ 154-12. Title and authority.

This article shall be known as the "Borough of Berwick Earned Income Tax Ordinance" and is enacted pursuant to the procedures and authority of and as set forth in the Act of the General Assembly of December 31, 1965, P.L. Act No. 511, known as the "Local Tax Enabling Act."³

ARTICLE II

Occupational Privilege Tax

[Adopted 1-12-1970 as Ch. 90 of the 1970 Code]

§ 154-13. 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:

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.

INDIVIDUAL — Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Borough of Berwick, who attains or is over the age of 18 years on the first day of January of the current tax year.

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 Berwick, for which compensation is charged or received, whether by means of salary, wages, commissions or fees for services rendered.

TAX ON OCCUPATION or OCCUPATIONAL TAX — A tax of \$10 per year levied on each engagement in any occupation, as hereinbefore defined, within the corporate limits of the Borough of Berwick during the current fiscal year.

TAX RECEIVER — The person designated by the Borough of Berwick for the collection of occupational taxes.

§ 154-14. Tax imposed.

The Borough of Berwick hereby levies and imposes on each individual engaged in an occupation during the fiscal year within the corporate limits of the Borough of Berwick an occupational privilege tax for the current fiscal year. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough of Berwick.

³ Editor's Note: See 53 P.S. § 6901 et seq.

§ 154-15. Amount of tax. [Amended 12-30-1970 by Ord. No. 1029]

Beginning with the first day of January in each fiscal year, every individual engaged in an occupation, as hereinbefore defined, within the Borough of Berwick, shall be required to pay an occupational privilege tax in the amount of \$10 per annum.

§ 154-16. Duty of employers.

Each employer within the Borough of Berwick, as well as those employers situated outside the Borough of Berwick but who engage in business within the Borough of Berwick, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Borough of Berwick the said tax of \$10 per annum and making a return and payment thereof to the Tax Receiver. Further, each employer is hereby authorized to deduct this tax from each employee in his employ, whether said employee is paid by salary, wages or commission and whether or not part or all of such services are performed within the Borough of Berwick.

§ 154-17. Returns.

Each employer shall prepare and file a return showing a computation of the tax, on forms to be supplied to him by the Borough of Berwick. 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. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from salary, wages or commissions paid by him to said employee, the employer shall be responsible for the payment of the tax in full without deducting a commission as though the tax had originally been levied against him.

§ 154-18. Dates for determining tax liability and payment.

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

§ 154-19. Individuals engaged in more than one occupation.

Each individual who shall have more than one occupation within the Borough of Berwick 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 Tax Receiver, which form shall be evidence of deduction having been made

and, when presented to any other employer, shall be authority for such other 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 account number of the employer who deducted this tax.

§ 154-20. 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 of Berwick shall be required to comply with this article and pay the tax to the Tax Receiver on or before April 30 of each fiscal year or thereafter, in accordance with the payment schedule specified in § 154-18 above, in the event that said individual becomes subject to this article after March 31 of any fiscal year.

§ 154-21. Individuals residing beyond corporate limits.

All employers and self-employed individuals residing or having their places of business outside of the Borough of Berwick but who perform services of any type or kind or engage in any occupation or profession within the Borough of Berwick 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 of Berwick. Further, any individual engaged in an occupation within the Borough of Berwick 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.

§ 154-22. Administration of tax.

- A. It shall be the duty of the Tax Receiver 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 Tax Receiver 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 and 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 Tax Receiver shall have the right to appeal to the Court of Common Pleas of Columbia County as in other cases provided.
- C. The Tax Receiver 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 Tax Receiver the means, facilities and opportunity for such examination.

§ 154-23. Suits for collection.

- A. In the event that any tax under this article remains due or unpaid 30 days after the due date above set forth, the Tax Receiver may sue for 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% on the amount of said tax shall be calculated beginning with the due date of said tax, and a penalty of 5% 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 cost of collection.

§ 154-24. Violations and penalties.

Whoever makes any false or untrue statement on any return required by this article or whoever 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 and pay the tax as required by this article, shall, upon conviction before any District Justice, be sentenced to pay a fine of not more than \$300 for each offense, and in default of payment of said fine, be imprisoned in Columbia County Prison for a period not exceeding 30 days for each offense. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refuses to file a return required by this article.

§ 154-25. Construal of provisions.

- A. Nothing contained in this article shall be construed to empower the Borough of Berwick 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 under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

§ 154-26. When effective.

This article shall become effective 30 days after final enactment or adoption thereof and shall remain in force and effect for the fiscal year of 1968 and for each fiscal year thereafter, as provided in Section 1 of Act 160, approved the ninth day of October 1967.⁴

⁴ Editor's Note: See currently 53 P.S. § 6901 et seq.

ARTICLE III
Per Capita Tax
[Adopted 1-31-1980 by Ord. No. 1137]

§ 154-27. Rate of tax levied.

A per capita tax of \$5 per annum is hereby levied and assessed upon each resident or inhabitant of the Borough of Berwick over 18 years of age, except those hereinafter specifically exempt, which tax shall be in addition to all other taxes levied and assessed by the Borough of Berwick and is enacted under authority of Act 511 of 1965 entitled the "Local Tax Enabling Act" (Act of December 31, 1965, P.L. 1257 and its amendments).⁵

§ 154-28. Collection; entry in tax duplicate records.

- A. Said tax shall be collected by the duly elected or appointed Tax Collector of borough taxes for the Borough of Berwick in the same manner and at the same time or times as other borough taxes are collected, as provided by the Local Tax Collection Law of 1945, as amended and supplemented.⁶
- B. The entry of said per capita tax in the tax duplicate records and issuance of said duplicate to the Tax Collector shall constitute his warrant for the collection of the per capita tax hereby levied and assessed.

§ 154-29. Tax Collector's bond.

The Tax Collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law for other borough taxes.

§ 154-30. Compensation for collection and expense.

The expenses of collection and compensation of the Tax Collector shall be paid and allowed as provided in the Local Tax Collection Law of 1945, as amended and supplemented,⁷ which compensation shall be the same as fixed from time to time by the Borough of Berwick for the collection of other borough taxes.

§ 154-31. Tax Collector's notice.

The Tax Collector shall give notice to the taxpayers of the amount of per capita tax due under this article at the same time and in the same manner as provided by the Local Tax Collection Law of 1945, as amended and supplemented.⁸

⁵ Editor's Note: See 53 P.S. § 6901 et seq.

⁶ Editor's Note: See 53 P.S. § 6901 et seq.

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

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

§ 154-32. Authority to add names to tax duplicates.

In case the Tax Collector or a Deputy Tax Collector shall at any time find within the Borough of Berwick any resident or inhabitant over the age of 18 years whose name does not appear on the tax duplicate, he shall report the name of such person forthwith to the proper assessment office and certify same to the Borough of Berwick, with the assessment office to promptly certify the same to the Tax Collector reporting said name, whereupon the Tax Collector shall add the name and the assessment of this per capita tax against such person to the duplicate per capita tax rolls of the Borough of Berwick and proceed to collect same.

§ 154-33. Collection by distress; sale.

The Tax Collector is hereby empowered with the authority to collect said tax by distress and sell all goods and chattels of the taxpayer, as provided therefor by the Local Tax Collection Law of 1945, as amended and supplemented.⁹

§ 154-34. Collection of delinquent per capita taxes from employers.

There is hereby conferred upon the Tax Collector the power and authority to demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals employing persons owing per capita taxes or whose spouse owes per capita taxes, or if in possession of unpaid commissions or earnings belonging to any person owing per capita taxes or whose spouse owes per capita taxes, upon presentation of written notice and demand containing the name of the taxable or spouse thereof, the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees then owing or that shall within 60 days thereafter become due, or from any unpaid commissions or earnings of any taxable in its or his possession or that shall within 60 days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the per capita taxes, interest, penalties and costs shown upon the written notice or demand, and to pay the same to the Tax Collector of the Borough of Berwick within 60 days after such notice shall have been given. The Tax Collector shall not proceed against a spouse or employer until he has pursued collection remedies against the delinquent taxpayer and his employer under this section. The employer shall be entitled to deduct not more than 2% for his expenses for such moneys paid over to the Tax Collector. Upon the failure of such employer to make such deduction when properly notified as herein provided, such employer shall forfeit and pay the amount of such tax for each such taxable whose taxes are not withheld and paid over to the Tax Collector as herein provided, which amount may be recovered by an action of assumpsit in a suit to be instituted by the Tax Collector on behalf of the Borough of Berwick.

⁹ Editor's Note: See 53 P.S. 6901 et seq.

§ 154-35. Notice to delinquent taxpayers.

The Tax Collector shall, at least 15 days prior to presentation of a written notice and demand to the State Treasurer or other fiscal officer of the state or to any corporation, political subdivision, association, company or individual, notify the taxpayer of the delinquent tax by certified mail that a written notice and demand shall be presented to his employer unless such tax is paid. The cost of such notice shall be attached to the cost of collecting the tax.

§ 154-36. Remittance by Tax Collector.

The Tax Collector shall keep a record account of all per capita taxes collected by authority of this article. He shall mark the same paid on each duplicate at the name of each taxable and the date on which payment was made. The Tax Collector shall remit said taxes to the Treasurer of the Borough of Berwick by a separate statement quarterly beginning with the quarter ending March 31 of each year and within three weeks of the end of each quarter.

§ 154-37. Intent; powers and duties of Tax Collector.

It is the intent of this section of this article to designate the Tax Collector as the office responsible for collection, and there is hereby conferred upon the Tax Collector all the powers, together with all the duties and obligations, to make collection of the taxes, interests and penalties due, to the same extent and as fully provided for in the Local Tax Collection Law of 1945, as amended and supplemented.¹⁰

§ 154-38. Discount, interest and penalties.

All taxpayers subject to the payment of the per capita tax herein levied and assessed shall be entitled to a discount of 2% of the amount of such tax upon making payment of the whole amount thereof within two months after the date of the tax notice. All taxpayers who fail to make payment of any such taxes charged against them for a period of four months after the date of the tax notice shall be charged interest at 6% per annum and a penalty of 10%, which interest and penalty shall be added to the taxes by the Tax Collector and be collected by him.

§ 154-39. Exemptions.

There is hereby exempt from the collection of the per capita tax under this article each and every person, persons, residents and inhabitants of the Borough of Berwick whose total income from all sources in any calendar year is less than \$3,200 per annum; each and every person, regardless of income, who is a full-time student at an accredited public or private educational institution for a minimum of nine months during the calendar year; each and every person 70 years of age or older; and each and every person or persons on disability pursuant to Social Security Administration standards.

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

ARTICLE IV
Realty Transfer Tax
 [Adopted 9-21-1987 by Ord. No. 1199]

§ 154-40.¹¹ Imposition of tax.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Borough of Berwick, regardless of where the documents making the transfer are made, executed or delivered or where the actual settlements on such transfer took place as authorized by the Local Real Estate Transfer Tax Act or amendments thereto.¹²

§ 154-41. Definitions.

The following words, 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 or more persons, other than a private trust or decedent's estate.

CORPORATION — A corporation, joint-stock association, business trust or banking institution which is organized under the laws of this commonwealth, the United States or any other state, territory or foreign country or dependency.

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 30 years, or instruments which solely grant, vest or confirm public utility easements. "Document" shall also include a declaration of acquisition required to be presented for recording under § 154-46 of this article.

FAMILY FARM CORPORATION — A corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 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.

¹¹ Editor's Note: Former Sec. 1, Short title, which immediately preceded this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

¹² Editor's Note: See 72 P.S. § 8101-D et seq.

- C. Fur farming.
- D. Stockyard and slaughterhouse operations.
- 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 decedents of any of the foregoing, a spouse of any of the foregoing and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood.

MUNICIPALITY — The Borough of Berwick.

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 of general partners thereof and, as applied to corporations, the officers thereof.

REAL ESTATE:

- A. Any lands, tenements or hereditaments within this commonwealth, including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.
- B. A condominium unit.
- C. A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.
- D. A time-sharing interest in housing or commercial building.

REAL ESTATE COMPANY — A corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, 90% or more of the ownership interest in which is held by 35 or fewer persons and which:

- A. Derives 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 90% or more of the value of its entire tangible asset holdings, exclusive of tangible assets, which are freely transferable and actively traded on an established market.

TITLE TO REAL ESTATE:

- A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including, without limitation, an estate in fee simple, life estate or perpetual leasehold.
- 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 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 nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale.
- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties or the real estate of an acquired company, the actual monetary worth of the real estate, determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio of assessed values to market values of the taxing district as established by the State Equalization Board, 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.
- 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 principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

§ 154-42. Tax levied; interest.

- A. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording shall be subject to pay for and in respect to the transaction or any part thereof a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

- B. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due, shall be added and collected.
- C. The entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. § 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer, then the tax levied by the Borough of Berwick under the authority of that Act shall, during the time such duplication of the tax exists, be $\frac{1}{2}$ of the rate, and such $\frac{1}{2}$ rate shall become effective without any action on the part of the Borough of Berwick; provided, however, that the Borough of Berwick and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to $\frac{1}{2}$ of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.

§ 154-43. Exemptions.

The United States, the commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

§ 154-44. Excluded transactions.

The tax imposed by § 154-42 shall not be imposed upon:

- A. A transfer to the commonwealth or to any of its instrumentalities, agencies or political subdivisions by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments, provided that said reconveyance is made within one year from the date of condemnation.
- B. A document which the commonwealth or borough is prohibited from taxing under the Constitution or statutes of the United States.
- C. A conveyance to a borough, township, school district or county pursuant to acquisition by the borough, township, school district or county of a tax-delinquent property or Sheriff's sale or Tax Bureau sale.
- D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded but which does not extend or limit existing record legal title or interest.
- E. A transfer or division in kind for no or nominal actual consideration of property passed by testate or intestate succession to devisee or heir or interest of deceased cotenant and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

- F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided 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, within 90 days of final decree, between parent and child or the spouse of such child, between brother or sister or 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 to an exempt party within one year shall be subject to tax.
- G. 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.
- H. A transfer for no or nominal actual consideration from the trustee to a beneficiary of an ordinary trust.
- I. A transfer for no or nominal actual consideration from a trustee to a successor trustee.
- J. A transfer for no or nominal 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 property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this subsection.
- K. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the municipality reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article.
- L. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.
- M. 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.
- N. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:
 - (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; and

- (2) The agency or authority has the full ownership interest in the real estate transferred.
- O. 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.
- P. 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.
- Q. A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954 [68A Stat. 3, 26 U.S.C. § 501(c)(3)] and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
- R. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
- S. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
- T. A transaction wherein the tax due is \$1 or less.
- U. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof. In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. 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.

§ 154-45. Documents relating to associations or corporations and members, partners, stockholders or shareholders thereof.

Except as otherwise provided in § 154-44, 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.

§ 154-46. Acquired companies.

- A. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change:
- (1) Does not affect the continuity of the company; and
 - (2) Of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three years.

- B. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this article.
- C. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the Recorder of Deeds for the affixation of stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in the municipality.

§ 154-47. Credits against tax.

- A. Where there is a transfer of a residential property by a licensed real estate broker, which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.
- B. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
- C. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
- D. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
- E. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carry-over credit shall be allowed.

§ 154-48. Extension of lease.

In determining the term of a lease, it shall be presumed that a right of option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

§ 154-49. Proceeds of judicial sale.

The tax herein imposed shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made, 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.

§ 154-50. Stamps.

- A. The payment of the tax imposed by this article shall be evidenced by the affixing of a stamp or stamps to every document by the person making, executing, delivering or presenting for recording such document, 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 so that such stamps may not again be used, provided that the municipality may prescribe such other method of cancellation as it may deem expedient.
- B. 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 municipality.

§ 154-51. Duties of Recorder of Deeds.

- A. As provided in 16 P.S. § 11011-6, as amended by Act of July 7, 1983, P.L. 40, No. 21, the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to the Borough of Berwick based on a redetermination of the amount of tax due the Commonwealth of Pennsylvania for the Pennsylvania realty transfer tax, without compensation from the Borough of Berwick.
- B. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.
- C. On or before the 10th of each month, the Recorder shall pay over to the Borough of Berwick all local realty transfer taxes collected, less 2% for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The two-percent commission shall be paid to the county.
- D. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only when both the state and local amounts and a rerecording or recording fee has been tendered.
- E. All moneys paid to the Borough of Berwick shall be audited during the effective period.

§ 154-52. Rules and regulations.

The municipality is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to:

- A. The method and means to be used in affixing or canceling of stamps in substitution for or in addition to the method and means provided in this article.

- B. Any other matter or thing pertaining to the administration and enforcement of the provisions of this article.

§ 154-53. Failure to affix stamps.

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 for conveyance of interest, nor shall proof thereof be offered or received in evidence in any court of this commonwealth or recorded in the office of the Recorder of Deeds, unless a stamp or stamps, as provided in this article, have been affixed thereto.

§ 154-54. Statement of value.

Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein, and as a part of such document, the true, full and complete value thereof or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article. 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.

§ 154-55. Civil remedies.

- A. 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 50% of the underpayment.
- B. 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 5% of the amount of such tax, if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

§ 154-56. Liens.

The tax imposed by this article shall become a lien upon the lands, tenements or hereditaments or any interest therein lying or being situated, wholly or in part, within the boundaries of the Borough of Berwick, which lands, tenements, hereditaments or interest therein are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this article, said lien to begin at the time when the tax under this article is due and payable and to continue until discharge by payment or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of

Columbia County, in accordance with the provisions of the Municipal Claims and Tax Liens Act of 1923, 53 P.S. § 7101 et seq., its supplements and amendments.

§ 154-57. Violations and penalties.

Any person who shall be convicted of violating or failing to carry out any of the provisions or requirements of this article or failing or refusing to pay over any tax levied by this article at the time required or of doing or attempting to do anything whatever to avoid the payment of the whole or any part of the tax imposed under this article shall be liable to payment of taxes levied plus a fine or penalty of not less than \$25 nor more than \$300 for each and every offense and the costs of prosecution thereof and, in default of payment of taxes and any such fine and/or costs, to imprisonment for not more than 30 days, provided that payment of any fine or costs imposed shall not be deemed payment of the tax and provided further that such fine or penalty shall be in addition to any other penalty imposed by any other section of this article.

§ 154-58. Lands lying partly within other municipalities.

Where land lying partly within the boundaries of the municipality and partly without said boundaries is transferred, the tax herein imposed shall be calculated on such portion of the value as shall be represented by the portion of such land lying within the boundaries of the municipality.

§ 154-59. Recovery of taxes.

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

§ 154-60. Enforcement.

Council of the Borough of Berwick is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. § 8101-C et seq. are incorporated into and made a part of this article.

