

CHAPTER 230: TAXATION

ARTICLE I. Earned Income Tax

- § 230-1. Definitions.
- § 230-2. Imposition of tax.
- § 230-3. No exemption from tax.
- § 230-4. Individual tax returns and payments.
- § 230-5. Employer withholding, remittance and tax returns.
- § 230-6. Tax Collector.
- § 230-7. Interest, penalties, costs and fines.
- § 230-8. Purpose; repealer.
- § 230-9. Effective date.

ARTICLE II. Realty Transfer Tax

- § 230-10. Findings.
- § 230-11. Short title.
- § 230-12. Authority.
- § 230-13. Definitions.
- § 230-14. Imposition of tax.
- § 230-15. Exempt parties.
- § 230-16. Excluded transactions.
- § 230-17. Documents relating to associations or corporations and members, partners, stockholders, or shareholders thereof.
- § 230-18. Acquired company.
- § 230-19. Credits against tax.
- § 230-20. Extension of lease.
- § 230-21. Duties of recorder of deeds.
- § 230-22. Statement of value.
- § 230-23. Civil penalties.
- § 230-24. Lien.
- § 230-25. Enforcement.
- § 230-26. Regulations.

ARTICLE III. Real Property Tax Exemptions

- § 230-27. Definitions.
- § 230-28. Exemptions.
- § 230-29. Exemption schedule.
- § 230-30. Procedure for obtaining exemption.
- § 230-31. Amendments.
- § 230-32. Termination date.
- § 230-33. Inapplicable exemption.

ARTICLE IV. Local Services Tax

- § 230-34. Authority for enactment.
- § 230-35. Short title.
- § 230-36. Definitions.
- § 230-37. Levy of tax.
- § 230-38. Amount of tax.

- § 230-39. Withholding and other duties of employers.
§ 230-40. Dates for determining tax liability, filing returns and making payment by employers.
§ 230-41. Priority of claims to collect the tax when an individual is engaged in more than one occupation.
§ 230-42. Dates for determining tax liability, filing returns and making payment by self-employed individuals.
§ 230-43. Responsibilities of nonresident employers, their employees and self-employed individuals.
§ 230-44. Exemptions.
§ 230-45. Administration of tax.
§ 230-46. Collection of unpaid taxes and enforcement of actions for violations.
§ 230-47. Restricted use of revenue.
§ 230-48. Saving clause.

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

Article I. Earned Income Tax

[Adopted 1-28-1966 by Ord. No. 162 (Ch. 24, Part 2, of the 1985 Code); amended in its entirety 12-7-2010 by Ord. No. 342]

§ 230-1. Definitions.

All terms defined in the Local Tax Enabling Act, 53 P.S. § 6924.101 et seq., shall have the meanings set forth therein. The following terms shall have the meanings set forth herein:

COLLECTOR

The person or entity appointed as tax officer pursuant to the Local Tax Enabling Act to collect the tax.

EFFECTIVE DATE

January 1, 2011.

ENACTMENT

This article.

GOVERNING BODY

The Borough of Newport.

LOCAL TAX ENABLING ACT

The Local Tax Enabling Act, 53 P.S. § 6924.101 et seq., and as amended in the future.

TAX

The tax imposed by this article.

TCC

The tax collection committee established to govern and oversee the collection of earned income tax within the TCD under the Local Tax Enabling Act.

TCD

Any tax collection district to which the Taxing Authority or any part of the Tax Authority is assigned under the Local Tax Enabling Act.

TAX RETURN

A form prescribed by the Collector for reporting the amount of Tax or other amount of Tax owed or required to be withheld, remitted, or reported under this article or the Local Tax Enabling Act.

TAX YEAR

The period from January 1 to December 31.

TAXING AUTHORITY

The Borough of Newport.

§ 230-2. Imposition of tax.

A. General purpose tax.

(1) General purpose residential tax. The Taxing Authority hereby imposes a tax for general revenue purposes at the rate of 0.5% on earned income and net profits of individual residents of the Taxing Authority.

(2) General purpose municipal nonresident tax. The Taxing Authority also imposes a tax for general revenue purposes at the rate of 0.5% on earned income and net profits derived by an individual who is not a resident of the Taxing Authority from any work, business, profession, or activity, of any kind engaged in within the boundaries of the Taxing Authority.

B. Ongoing tax. The tax shall continue at the above rates during the current tax year and each tax year, without annual reenactment, until this article is repealed or the rate is changed.

C. Combined tax rate applicable to residents. Currently, the total rate applicable to residents of the Taxing Authority, including the tax imposed by the school district and municipality in which the individual resides, is 1.0% unless otherwise provided by applicable law.

- D. Municipal tax rate applicable to nonresidents. Currently, the total rate applicable to nonresidents working within the Taxing Authority based on the municipal nonresident tax rate is 0.5%.
- E. Local Tax Enabling Act applicable. The tax is imposed under authority of the Local Tax Enabling Act, and all provisions thereof that relate to a tax on earned income or net profits are incorporated into this article. Any future amendments to the Local Tax Enabling Act that are required to be applied to a tax on earned income or net profits will automatically become part of this article upon the effective date of such amendment, without the need for formal amendment of this article, to the maximum extent allowed by 1 Pa.C.S.A. § 1937.
- F. Applicable laws, regulations, policies and procedures. The tax shall be collected and administered in accordance with: all applicable laws and regulations; and policies and procedures adopted by the TCC or by the Collector. This includes any regulations, policies and procedures adopted in the future to the maximum extent allowed by 1 Pa.C.S.A. § 1937.

§ 230-3. No exemption from tax.

Although credits and deductions against tax are permitted under certain circumstances as provided in applicable law and regulations, no individuals are exempt from tax based on age, income or other factors.

§ 230-4. Individual tax returns and payments.

Every individual receiving earned income or earning net profits in any tax year shall file tax returns and pay tax in accordance with the Local Tax Enabling Act. Editor's Note: See 53 P.S. § 6924.101 et seq.

§ 230-5. Employer withholding, remittance and tax returns.

Every employer shall register, withhold and remit tax and file tax returns in accordance with the Local Tax Enabling Act.

§ 230-6. Tax Collector.

The tax will be collected from individuals and employers by the Collector.

§ 230-7. Interest, penalties, costs and fines.

Individuals and employers are subject to interest, penalties, costs and fines in accordance with the Local Tax Enabling Act, including cost imposed by the Collector in accordance with authorization by the TCC having jurisdiction.

§ 230-8. Purpose; repealer.

The primary purpose of this article is to conform the earned income and net profits tax currently imposed to the Local Tax Enabling Act, as amended and restated by Act 32 of 2008, and to do so within the time frame required by Act 32. Any prior enactment or part of any prior enactment conflicting with the provisions of this article is rescinded insofar as the conflict exists. To the extent the same as any enactment in force immediately prior to adoption of this article, the provisions of this article are intended as a continuation of such prior enactment and not as a new enactment. If this article is declared invalid, any prior enactment levying a similar tax shall remain in full force and effect and shall not be affected in any manner by adoption of this article. The provisions of this article shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish offense under the authority of any enactment in force prior to adoption of this article. Subject to the foregoing provisions of this section, this article shall supersede and repeal on the effective date any enactment levying a tax on earned income or net profits in force immediately prior to the effective date.

§ 230-9. Effective date.

This article shall be effective January 1, 2011.

Article II. Realty Transfer Tax

[Adopted 6-3-1980 by Ord. No. 222 (Ch. 24, Part 1, of the 1985 Code); amended in its entirety 5-2-2006 by Ord. No. 323]

§ 230-10. Findings.

The Council of the Borough of Newport hereby finds as follows:

- A. Since the enactment of this Borough's Realty Transfer Tax Ordinance in June of 1980, there have been various amendments to state law that have changed, among other things, the statutory references;
- B. Borough Council, by resolution passed at its April 7, 1987 meeting, authorized changes to the way the said tax was collected by the Recorder of Deeds for Perry County;
- C. The Recorder of Deeds for Perry County was notified of these changes by letter of Council dated May 1, 1987;
- D. The Recorder of Deeds has requested that Council provide to it a copy of the resolution passed at the April 7, 1987, meeting, but despite diligent efforts, Council has been unable to locate a copy of same; and

E. It is in the best interest of the Borough to update its local transfer tax ordinance to reflect changes in state law, changes in the citation to statutes cited in said ordinance, and to restate and clarify the Recorder of Deed's obligations to collect the said tax as provided in the action taken by Council on April 7, 1987, and as amended by changes in state law.

F.

§ 230-11. Short title.

This article shall be known as the "Realty Transfer Tax Ordinance of the Borough of Newport."

§ 230-12. Authority.

This article is enacted under the authority of Chapter 5, Tax Reform Code of 1971, Article XI-D, Local Real Estate Transfer Act (72 P.S. § 8101-D et seq.), and the Local Tax Enabling Act (53 P.S. § 6901 et seq.).

§ 230-13. Definitions.

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

ASSOCIATION

A partnership, limited partnership, or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent's estate.

BOROUGH

The Borough of Newport, County of Perry, and Commonwealth of Pennsylvania.

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.

DEPARTMENT

The Department of Revenue of this commonwealth.

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 a public utility easement. "Document" shall

also include a declaration of acquisition required to be presented for recording under § 230-18 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 include the leasing to members of the same family of property which is directly and principally used for agricultural purposes. The business of agriculture shall not be deemed to include:

- A. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition, or racing;
- B. The raising, breeding, or training of game animals or game birds, fish, cats, dogs, or pets or animals intended for use in sporting or recreational activities;
- C. Fur farming;
- D. Stockyard and slaughterhouse operation; or
- E. Manufacturing or processing operations of any kind.

FAMILY FARM PARTNERSHIP

A partnership of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of the interests in the partnership are continuously owned by members of the same family of property which is directly and principally used for agricultural purposes. The business of agriculture shall not be deemed to include:

- A. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition, or racing;
- B. The raising, breeding or training of game animals or game birds, fish, cats, dogs, or pets or animals intended for use in sporting or recreational activities;
- C. Fur farming;
- D. Stockyard and slaughterhouse operations; or
- E. Manufacturing or processing operations of any kind.

LIVING TRUST

Any trust, other than a business trust, intended as a will substitute by the settler which becomes effective during the lifetime of the settler, but from which trust distributions cannot be made to any beneficiaries other than the settler prior to the death of the settler.

MEMBERS OF THE SAME FAMILY

Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the

foregoing, a spouse of any of the foregoing and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood.

ORDINARY TRUST

Any trust, other than a business trust or a living trust, which takes effect during the lifetime of the settler and for which the trustees of the trust take title to property primarily for the purpose of protecting, managing or conserving it until distribution to the named beneficiaries of the trust. An ordinary trust does not include a trust that has an objective to carry on business and divide gains, nor does it either expressly or impliedly have any of the following features: the treatment of beneficiaries as associates, the treatment of the interests in the trust as personal property, the free transferability of beneficial interests in the trust, centralized management by the trustee or the beneficiaries, or continuity of life.

PERSON

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

REAL ESTATE

- A. All lands, tenements or hereditaments within this, the Borough of Newport, 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.

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; or
- B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, including, without limitation, a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 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 therefore, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate: Provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;
- 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 by the common level ratio of assessed values to market values of the taxing district as established by the State Tax 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; or

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

§ 230-14. Imposition of tax.

- A. There is hereby levied, assessed, and imposed on every person who makes, executes, delivers, accepts, or presents for recording any document or on whose behalf any document is made, executed, delivered, accepted, or presented for recording, a tax, for and in respect of the transaction or any part thereof, 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. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Recorder of Deeds, whereon the date of payment of the tax, the amount of the tax, and the signature of the collecting agent shall be set forth.
- C. It is the intent of this article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act 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 this article shall, during such time as the duplication of the tax exists, except as hereinafter be otherwise provided, be 1/2 of the rate and 1/2 of the rate shall become effective without any action on the part of the Borough; provided, however, that the Borough, and any other political subdivision which imposed such tax on the same person or transaction may agree that instead of limiting their respective rates to 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."
- D. If for any reason the tax is not paid when due, interest at the rate in effect and at the time the tax is due shall be added and collected.
- E. The tax hereby levied, assessed, and imposed shall be paid by the transferee, but nothing herein contained shall be construed as prohibiting the payment of the tax by the transferor. The payment of the tax by the transferor shall discharge the transferee's obligation and liability for the payment of the tax.

§ 230-15. Exempt parties.

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

§ 230-16. Excluded transactions.

The tax imposed by § 230-14 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 said reconveyance is made within one year from the date of condemnation.
- B. A document which the Borough is prohibited from taxing under the Constitution or statutes of the United States.
- C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.
- D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- E. A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by 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 the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.

- G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries that are entitled to receive the property or proceeds from the sale of the property under the trust, whether or not such beneficiaries are contingent or specifically named. A trust clause which identifies the contingent beneficiaries by reference to the heirs of the trust settler as determined by the laws of the intestate succession shall not disqualify a transfer from the exclusion provided by this clause. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- I. A transfer for no or nominal actual consideration to a trustee of a living trust from the settler of the living trust. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the living trust instrument.
- J. A transfer for no or nominal actual consideration from a trustee of an ordinary trust to a specifically named beneficiary that is entitled to receive the property under the recorded trust instrument or to a contingent beneficiary where the transfer of the same property would be exempt if the transfer was made by the grantor of the property into the trust to that beneficiary. However, any transfer of real estate from a living trust during the settler's lifetime shall be considered for the purposes of this article as if such transfer were made directly from the settler to the grantee.
- K. A transfer for no or nominal actual consideration from a trustee of a living trust after the death of the settler of the trust or from a trustee of a trust created pursuant to the will of a decedent to a beneficiary to whom the property is devised or bequeathed.
- L. A transfer for no or nominal actual consideration from the trustee of a living trust to the settler of the living trust if such property was originally conveyed to the trustee by the settler.
- M. A transfer for no or nominal actual consideration from trustee to successor trustee.
- N. A transfer:
 - (1) For no or nominal actual consideration between principal and agent or straw party; or
 - (2) 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.

- O. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the Pennsylvania Department of Revenue reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article.
- P. 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.
- Q. 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.
- R. 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.
- S. 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.
- T. 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 transfer for commercial purposes.
- U. 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; or a transfer from such a conservancy to the United States, the commonwealth or to any of their instrumentalities, agencies or political subdivisions; or any transfer from such a conservancy where the real estate is encumbered by a perpetual agricultural conservation easement as defined by the act of June 30, 1981

(P.L. 128, No. 43), known as the “Agricultural Area Security Law,” Editor’s Note: See 3 P.S. § 901 et seq. and such conservancy has owned the real estate for at least two years immediately prior to the transfer.

- V. 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.
- W. A transfer of real estate devoted to the business of agriculture to a family farm partnership by a member of the same family, which family directly owns at least 75% of the interests in the partnership.
- X. A transfer between members of the same family of an ownership interest in a real estate company, family farm corporation or family farm partnership which owns real estate.
- Y. A transaction wherein the tax due is \$1 or less.
- Z. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.
- AA. In order to exercise any exclusion provided in this section, the true, full, and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas, or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this article.

§ 230-17. Documents relating to associations or corporations and members, partners, stockholders, or shareholders thereof.

Except as otherwise provided in § 230-16 hereof, 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 purpose of this section, corporations and associations are entities separate from their members, partners, stockholders, or shareholders.

§ 230-18. Acquired company.

- A. A real estate company is an acquired company upon a change in the ownership interest in the company, however affected, if the change does not affect the continuity of the company; and of itself or together with prior changes, has the effect of transferring, directly or indirectly, 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. A family farm partnership is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm partnership or when, because of transfer of partnership interests 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 partnership under this act.[Added 1-8-2013 by Ord. No. 348]
- D. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the Recorder of Deeds of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired property in such county. A copy of the Pennsylvania Transfer Tax Declaration of Acquisition may be submitted for this purpose.

§ 230-19. 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 a 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. here there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as a 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 due paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
- D. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.

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

§ 230-20. Extension of lease.

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

§ 230-21. 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 based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania Realty Transfer Tax, without compensation from the Borough.
- 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 what taxes are due each municipality.
- C. On or before the 10th of each month, the Recorder shall pay over to the Borough all local realty transfer taxes collected, less 2% for the 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 2% commission shall be paid to the county.
- D. Upon a re-determination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder of Deeds shall at his option rerecord the deed of record or record the additional realty-transfer tax form but only after the State and Local amount payable, as well as a fee to cover the costs of rerecording or recording, the document has been tendered and received by the Recorder of Deeds.

§ 230-22. Statement of value.

Every document lodged with or presented to the Recorder 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 section. A

copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this section shall not apply to any excludable real estate transfer which is exempt from taxation based on family relationship. Other documents presented for 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.

§ 230-23. Civil penalties.

- A. If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to the tax amount equal to 50% of the underpayment.
- B. In the case of failure to record a declaration required under this section 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.

§ 230-24. Lien.

The tax imposed by this article shall become a lien upon the lands, tenements, or hereditaments, or any interest thereof, lying, being situated, wholly or in part, within the boundaries of the Borough, 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 continue until discharged by payment, or in accordance with the law, and the solicitor is authorized to file a municipal tax claim in the Court of Common Pleas of the 41st Judicial District of Pennsylvania, Perry County Branch, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. § 7101 et seq., its supplements and amendments.

§ 230-25. Enforcement.

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

§ 230-26. Regulations.

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

Article III. Real Property Tax Exemptions

[Adopted 6-2-1998 by Ord. No. 301 (Ch. 24, Part 5, of the 1985 Code)]

§ 230-27. Definitions.

As used in this article, the following words and phrases shall have the meaning set forth below:

COUNTY

The County of Perry, Pennsylvania.

DETERIORATED PROPERTY

Any industrial, commercial or other business property owned by an individual, association, or corporation, and located in an investment opportunity area, as defined hereinafter.

IMPROVEMENT

Repair, new construction or reconstruction, including alterations and additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement. The term "improvement" also shall include the construction of new industrial, commercial or other business units or facilities located in investment opportunity areas, as defined hereinafter.

INVESTMENT OPPORTUNITY AREAS

All that portion of the Borough of Newport on both sides of the street, bounded and described as follows, to wit: beginning at a point in the intersection of the center line of Market Street and Front Street; thence southwardly in an imaginary line of a continuation of Front Street to the center line of Mulberry Street; thence westwardly along the center line of Mulberry Street to the center line of Third Street; thence northwardly along the center line of Third Street to the center line of Walnut Street; thence eastwardly along the center line of Walnut Street to the center line of Front Street; thence southwardly along the center line of Front Street to the center line of Market Street at the point and place of beginning.

LOCAL TAXING AUTHORITY

The Borough of Newport, Newport School District, the County of Perry or any other governmental entity having the authority to levy real property taxes with the Borough of Newport.

MUNICIPAL GOVERNING BODY OR BOROUGH

The Borough of Newport.

§ 230-28. Exemptions.

- A. The exemption from real property taxes shall be limited:
 - (1) To the exemption schedule as established within this article.
 - (2) To that portion of the additional assessment attributable to the actual cost of improvements to the deteriorated property.
 - (3) To the assessment valuation attributable to the cost of construction of new industrial, commercial or other business unit in investment opportunity areas.
- B. In all cases, the exemption from taxes shall be limited to that portion of the additional assessment attributable to the improvement or new construction, as the case may be, and for which a separate assessment has been made by the Perry County Board of Assessment and Revision of Taxes, and for which an exemption has been separately requested.
- C. No tax exemption shall be granted if the property owner does not secure the necessary and proper permits prior to improving the property.
- D. In any case, after the effective date of this article, when deteriorated property is damaged, destroyed or demolished, by any cause or for any reason, and the assessed valuation of the property affected has been reduced as a result of said damage, destruction or demolition, the exemption from real property taxation authorized by this article shall be limited to that portion of new assessment attributable to the actual cost of improvements or construction that is in excess of the original assessments that existed prior to the damage, destruction or demolition of the property.

§ 230-29. Exemption schedule.

- A. For the 10 years immediately following the year in which the improvement becomes assessable, the following real estate tax exemption schedule shall be in effect:

Length	Portion Exempt
First year	100%
Second year	90%
Third year	80%
Fourth year	70%
Fifth year	60%
Sixth year	50%

Seventh year	40%
Eighth year	30%
Ninth year	20%
Tenth year	10%

- B. After the tenth year, the exemption shall terminate.
- C. The exemption from taxes granted under this article shall be upon the property exempted and shall not terminate upon the sale or exchange of the property.
- D. If an eligible property is granted tax exemption pursuant to this article, the improvement shall not, during the exemption period, be considered as a factor in assessing other properties.
- E. If the use of the property at the time the exemption is granted is modified, terminated or changed during the ten-year exemption period in any way which would have affected the exemption if the property had been so used when the exemption was granted, then, at the election of the Board of County Commissioners, the exemption shall terminate if the Board of County Commissioners determines that the continuation of the exemption would be inconsistent with the purposes of this article.
- F. In the event there is a reassessment of all real property within the county, pursuant to a countywide reassessment plan, the tax exemption granted pursuant to this article and applicable to the improvement shall remain in effect in accordance with the exemption schedule and terms of this article notwithstanding any reassessment. As portions of the real estate tax exemption on the improvement declines or terminates in accordance with the exemption schedule hereof, the portion of the improvement no longer subject to tax exemption granted under this article shall become subject to such real property taxes and the county assessment applicable and in effect at that time.

§ 230-30. Procedure for obtaining exemption.

- A. Any person desiring tax exemption pursuant to this article shall apply to the County at the time a building permit is secured for the construction of the improvement from the Borough of Newport. The application shall be in writing upon forms specified by the Borough of Newport or the County, as available, setting forth the following information:
 - (1) The date the building permit was issued for said improvement.
 - (2) The location of the property to be improved or the location of the new construction.
 - (3) The nature of the property to be improved (industrial, commercial, etc.).

- (4) The summary of the plan of the improvement.
 - (5) The costs of the improvement.
 - (6) Such other information as the county or the Borough may require.
- B. A copy of the application shall be forwarded by the county to the Perry County Board of Assessment and Revision of Taxes. Upon completion of the improvement, the taxpayer or applicant shall notify the county and the Perry County Board of Assessment and Revision of Taxes so that the Board of Assessment may assess the improvement separately for the purpose of calculating the amount of the assessment eligible for tax exemption in accordance with the limits established in this article. The Board of Assessment will then notify the county and the taxpayer or applicant of the reassessment eligible for exemption. Appeals from the reassessment and the amounts eligible for the exemption may be taken by the taxpayer or the local taxing authority as provided by law.

§ 230-31. Amendments.

No amendment to this article shall be effective unless consented to by resolution or ordinance of each local taxing authority which has consented to be bound by the terms of this article.

§ 230-32. Termination date.

This article shall automatically terminate five years following the effective date hereof; providing, however, any taxpayer who has received or applied for the exemption granted by this article prior to the expiration date herein provided shall, if said exemption is granted, be entitled to the full exemption authorized herein. This Section shall not prevent the Borough Council, however, from repealing this article or any section thereof before five years upon proper action of Council.

§ 230-33. Inapplicable exemption.

- A. Any exemption made permissible under this article shall not be available to any owner-occupied residential home, apartment building or other living establishments, except hotels and motels which rent rooms to travelers on short-term basis.
- B. Notwithstanding the above, mixed-use buildings with commercial space on the first floor and apartments on the upper floors shall be eligible for the exemption if 51% of the square footage on the first floor is allocated to a commercial use.

Article IV. Local Services Tax

[Adopted 12-4-2007 by Ord. No. 329]

§ 230-34. Authority for enactment.

This article is enacted under the authority of the Local Tax Enabling Act, Act No. 511 of December 31, 1965 (P.L. 1257), as amended (53 P.S. § 6901 et seq.).

§ 230-35. Short title.

This article shall be known and may be cited as the “Local Services Tax Ordinance.”

§ 230-36. 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:

ACT

The Local Tax Enabling Act, Act No. 511 of December 31, 1965 (P.L. 1257, as amended, 53 P.S. § 6901 et seq.).

BOROUGH OF NEWPORT

The Borough of Newport and the area within the corporate limits of the Borough of Newport.

COLLECTOR

The person or firm from time to time designated by motion of the Borough of Newport to collect, administer and enforce the tax levied by this article.

EARNED INCOME

The same meaning as net profits under Section 13, Division 1, of the Act [53 P.S. § 6913(1)].

EMPLOYER

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

FISCAL YEAR

The twelve-month period beginning January 1 and ending December 31.

HE, HIS or HIM

Includes singular and plural number, and male, female and neuter gender.

INDIVIDUAL

Any person, male or female, 18 years of age or over, engaged in any occupation within the limits of the Borough of Newport.

NET PROFITS

The same meaning as earned income under Section 13, Division 1 of the Act [53 P.S. § 6913(1)].

NONPRINCIPAL EMPLOYER

An employer in a concurrent employment situation who does not pay the largest amount of salary, wage, commission or other compensation to an employee.

NONPRINCIPAL OCCUPATION

The occupation of a self-employed person in a concurrent occupation situation from which he does not derive the largest net profit.

OCCUPATION

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

PRINCIPAL EMPLOYER

An employer in a concurrent employment situation who pays the largest amount of salary, wage, commission or other compensation to an employee.

PRINCIPAL OCCUPATION

The occupation of a self-employed person in a concurrent occupation situation from which he derives the largest net profit.

RESERVE COMPONENT OF THE ARMED FORCES

The United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard, or the Pennsylvania Air National Guard.

TAX

The Local Services Tax authorized by Act 7 of June 21, 2007 (53 P.S. § 6902) levied by this article.

TREASURER

The Treasurer of the Borough of Newport.

§ 230-37. Levy of tax.

The Borough of Newport hereby levies and imposes on each occupation engaged in within

the Borough of Newport by individuals during the fiscal year of 2008 and each fiscal year thereafter a Local Services Tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough of Newport. Such tax shall continue in force on a fiscal-year basis without annual reenactment unless the rate of the tax is subsequently changed.

§ 230-38. Amount of tax.

- A. Each occupation as hereinbefore defined, engaged in within the Borough of Newport, shall be subject to a tax in the amount of \$52 per annum, such tax to be paid by the individual so engaged.
- B. An employee shall pay a pro rata share of the tax for each payroll period in which the person is engaging in his occupation. The pro rata share shall be determined by dividing the tax levied pursuant to Subsection A of this section by the number of payroll periods established by his employer for the fiscal year as provided in § 230-39.
- C. An individual who is self-employed shall pay the tax in its entirety as provided in §§ 230-41 and 230-42.

§ 230-39. Withholding and other duties of employers.

- A. Each employer within the Borough of Newport as well as those employers situated outside the Borough of Newport, but who engage in business within the Borough of Newport, is hereby charged with the duty of withholding from each of his employees engaged by him and performing for him within the Borough of Newport the pro rata share of the tax, described in § 230-38B, and making a return and payment of the withheld tax to the Collector within 30 days of the end of each quarter of a fiscal year as described in § 230-40. Further, each employer is hereby authorized to withhold the pro rata share of the tax from each employee in his employ, whether such employee is paid by salary, wages or commission and whether or not part or all such services are performed within the Borough of Newport unless the employee is engaging in concurrent employment with a principal employer or other nonprincipal employers located in higher priority political subdivisions as described in Subsection E of this section or has an exemption certificate on file with the employer and the Collector as describe in § 230-44B or C.
- B. Withholding of the tax shall be made on a payroll-period basis for each payroll period during the fiscal year in which an employee is engaging in an occupation unless the employee is engaging in concurrent employment. For purposes of determining the pro rata share, the employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. If employment of an employee subject to withholding is

subsequently terminated, the terminated employee shall be liable for the outstanding balance of the tax due.

- C. If a person who claimed an exemption for a fiscal year and filed an exemption certificate pursuant to § 230-44B becomes subject to the tax for that year, the employer shall withhold the tax for the first payroll period after receipt of notification that the employee is subject to the tax in a lump sum equal to the amount of the tax which was not withheld due to the exemption plus the per-payroll amount due for that first period. The amount of the tax withheld for the remaining payroll periods in the fiscal year shall be as calculated in accordance with Subsection B of this section.
- D. Employers shall ensure that certificate forms, supplied by the Collector, for requesting an exemption, as describe in § 230-44B or C, are readily available to employees at all times and shall furnish each new employee with the form at the time of hiring.
- E. If a principal or other nonprincipal employer is a higher-priority employer because it is located in higher-priority political subdivisions, as described in § 230-41, withholds the tax for the fiscal year in any amount and if the employee provides a recent pay statement from the withholding higher priority employer that includes the name of the employer, the length of the payroll period and the amount of the tax collected, an employer shall refrain from withholding the tax if the employee provides a pay statement. If the employee is also self-employed and engaging in a concurrent principal occupation or nonprincipal occupation which is a higher-priority occupation because it is located in a higher priority political subdivision, as described in § 230-41, and pays the tax for the fiscal year in any amount, an employer shall refrain from withholding the tax if the employee provides proof of payment of the tax to the political subdivision where the employee's higher priority occupation is taxed. In order for the employer to refrain from withholding, it shall also be necessary for the employee to affirm in writing to the employer that the pay statement provided is from the higher-priority employer or that the proof of payment of the tax was on account of a higher-priority occupation, and that the employee will notify other employers of a change in higher priority employer or occupation within two weeks of the occurrence.
- F. No employer shall be held liable for failure to withhold the tax or for payment of the withheld tax money to the Collector if the failure to withhold the tax arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. No employer shall be responsible for investigating exemption certificates or monitoring eligibility or exempting

an employee from withholding except where a person with an exemption certificate issued under § 230-44B becomes subject to the tax as described in Subsection C of this section.

§ 230-40. Dates for determining tax liability, filing returns and making payment by employers.

- A. Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Collector.
- B. Each employer shall use his employment records from January 1 to March 31 for determining the number of employees from whom the tax shall be deducted and paid over to the Treasurer on or before April 30. Supplemental reports shall be made by each employer on July 30, October 30 and January 30 of new employees and additional tax withholdings and any new exemptions on continued employees as reflected on his employment records from April 1 to June 30, July 1 to September 30, and October 1 to December 31. Payments on these supplemental reports shall be made on July 30, October 30 and January 30, respectively.
- C. If an employer has employees for whom he is not withholding the tax pursuant to § 230-39A, the employer shall include such employee on his return by setting forth his name, address, social security number, and the name and account number of the employer(s) who withheld the tax(es) and/or the name of the taxing jurisdiction(s) to whom an employee paid a tax on a self employed occupation.

§ 230-41. Priority of claims to collect the tax when an individual is engaged in more than one occupation.

- A. Each individual who shall have more than one occupation within the Borough of Newport shall be subject to the payment of the tax on his principal occupation by the individual if he is self-employed or to withholding of the tax by his principal employer if he is employed. If one of his occupations is a self-employed one, he shall pay the tax in its entirety to the Collector and receive a receipt of payment as described in § 230-42A. When the receipt of payment is presented to an employer that employer will not withhold the tax or part of the tax by authority of § 230-39A and E. If an individual is employed in all of his occupations within the Borough of Newport, his principal employer shall withhold the tax and deliver to him evidence of withholding on a form meeting the requirements of § 230-39E to be furnished to the employer by the Collector, which form shall be evidence of withholding having been made. When the completed form is presented to a nonprincipal employer, that employer will not withhold the tax or part of the tax by authority of § 230-39A and E.

- B. In the event a person is engaged in an occupation which requires his working in more than one political subdivision, the first priority political subdivision to collect the tax shall be the political subdivision in which his principal employer is located or, if self-employed, the political subdivision in which his principal occupation is located. If the political subdivision where the principal employer or principal occupation is located does not collect the tax, the second priority political subdivision to collect the tax shall be the political subdivision in which the person resides and works to the extent a tax is not levied by the first priority political subdivision. The third priority political subdivision to collect the tax shall be the political subdivision in which a person is working and which imposes the tax nearest in miles to the person's home to the extent a tax is not levied by the first and second priority political subdivisions. The place where a person works and the priority of collection shall be determined as of the day the taxpayer first becomes subject to the tax during the fiscal year.
- C. It is the intent of this provision that no person shall pay more than \$52 in any fiscal year as a tax, irrespective of the number of political subdivisions within which such person may be employed within any given fiscal year. In case of dispute, the sum of tax receipts which are not duplications from taxing jurisdictions, any other appropriate evidence of payment, and/or the most recent pay statements from an employer indicating accumulated and prospective withholding of tax actually due to higher priority taxing political subdivisions for that fiscal year equaling at least \$52 shall constitute prima facie certification of payment to all other political subdivisions. Any tax paid, withheld, or prospectively to be withheld, that is not to a higher-priority taxing jurisdiction should not be included in determining this \$52 amount. An employee should apply for refund for such amounts paid to taxing jurisdictions of lesser priority.

§ 230-42. Dates for determining tax liability, filing returns and making payment by self-employed individuals.

- A. All self-employed individuals who perform services of any type or kind, engaged in any occupation or profession within the Borough of Newport shall be required to comply with this article and pay the tax to the Collector on April 30, or as soon thereafter as he engages in an occupation. The Collector, as the agent of the Borough of Newport, shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- B. In the event a self-employed person is engaged in more than one occupation within or without the Borough of Newport or an occupation which requires his working in more than one political

subdivision during the year, reporting priority of claims and prima facie certification of payment shall be in accordance with § 230-41B.

- C. Individuals employed within the Borough of Newport who are not exempt from the tax pursuant to § 230-43 and whose employer is not legally required to withhold the tax shall be considered self-employed persons for purposes of this article.

§ 230-43. Responsibilities of nonresident employers, their employees and self-employed individuals.

- A. All employers and self-employed individuals residing or having their place of business outside of the Borough of Newport but who perform services of any type or kind, or engage in any occupation or profession within the Borough of Newport, 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 Newport.
- B. Any individual engaged in an occupation within the Borough of Newport and an employee of a nonresident employer may, for the purpose of this article, be considered a self-employed person, and in the event the tax is not paid, the Borough of Newport shall have the option of proceeding against either the employer or employee for the collection of the tax as hereinafter provided.

§ 230-44. Exemptions.

- A. Whenever it occurs that an individual is engaged in a business or occupation or businesses or occupations within the corporate limits of the Borough of Newport from which he derives in the aggregate less than \$12,000 per year earned income and net profits from all sources within the corporate limits of the Borough of Newport and a tax was withheld, such individual may file a claim for refund as described in § 230-45D.
- B. Whenever it occurs that an individual is engaged in a business or occupation or businesses or occupations within the corporate limits of the Borough of Newport from which he reasonably expects to derive in the aggregate less than \$12,000 per fiscal year earned income and net profits from all sources within the corporate limits of the Borough of Newport, such individual may file a certificate with the Collector, as the agent of the Borough of Newport and his employer in the Borough of Newport, directing that employer not to withhold the tax. The certificate shall be in a form approved by the Collector and have attached to it a copy of all the individual's last pay stubs or W-2 forms from employment and any net profits from

businesses with in the Borough of Newport for the fiscal year prior to the fiscal year for which the individual is requesting an exemption.

- C. Whenever it occurs that an individual who served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic, or a double or triple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total 100% permanent disability, such individual may, on proof of such disability filed with the Collector, file an exemption certificate with the Collector, as the agent of the Borough of Newport and his employer in the Borough of Newport directing that employer not to withhold the tax or file a claim for refund, as described in § 230-45D.
- D. Whenever it occurs that an individual is serving as a member of a reserve or component of the armed forces and is called to active duty at any time during a fiscal year, such individual may file a claim for refund, as described in § 230-45D.

§ 230-45. Administration of tax.

- A. It shall be the duty of the Collector to accept and receive payment of this tax, penalties, interest thereon and costs of collection 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, penalties, interest thereon and costs of collection were received.
- B. The Collector is hereby charged with the administration and enforcement of this article and is hereby, as the agent of the Borough of Newport, charged and empowered to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article; examine and correct 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, or any payment made by a taxpayer who is engaged in a business or occupation or businesses or occupations within the corporate limits of the Borough of Newport. Any person aggrieved by any decision of the Collector shall have the right to appeal to the Court of Common Pleas of Perry County as in other cases provided.
- C. The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer, or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

D. The Collector, as the agent of the Borough of Newport, is hereby authorized to make refunds for overpayments of the tax or payments or withholding of the tax from exempt persons within three years of the due date for filing a return as extended or one year after payment of the tax, whichever is later, consistent with 53 Pa.C.S.A. §§ 8425 and 8426. Refunds made within 75 days of a refund request or 75 days after the last day an employer is required to remit the tax for the last quarter of the fiscal year pursuant to § 230-40 shall not be subject to interest imposed under 53 Pa.C.S.A. § 8426. Collector shall only provide refunds for amounts overpaid in a fiscal year that exceed \$1.

§ 230-46. Collection of unpaid taxes and enforcement of actions for violations.

- A. In the event that the tax imposed under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of the 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 such tax shall be calculated beginning with the due date of the tax and a penalty of 6% shall be added to the flat rate of the tax for nonpayment thereof.
- C. Collector may impose on and collect from delinquent taxpayers and retain all reasonable costs of collection incurred by Collector in its enforcement and collection of delinquent tax payments, provided such collection and enforcement action occurs within five years after the last day of the year in which the tax was first due and provided Collector reports the total of such cost collections to the Borough of Newport at least annually.
- D. The chief executive officer of Collector, or his designee, by reason of his duties under Subsections A, B and C of this section, is hereby appointed the Deputy Tax Collector of the Borough of Newport for collection of its delinquent tax.
- E. Any individual or employer who or which shall fail, neglect or refuse to pay the tax after it becomes due and payable, or otherwise violates any part of this article, shall face conviction before any Magisterial District Judge and be subject to a fine or not more than \$600 and/or 30 days' imprisonment for each offense and costs of court proceedings.[Amended 1-8-2013 by Ord. No. 348]

§ 230-47. Restricted use of revenue.

Funds derived from the tax may only be used for the following purposes:

- A. Not less than 25% of the funds derived from the tax shall be used for emergency services, which shall include emergency medical services, police services and/or fire services;

- B. Road construction and/or maintenance;
- C. Reduction of property taxes; and
- D. Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85, Subchapter F.

§ 230-48. *Saving clause.*

- A. Nothing contained in this article shall be construed to empower the Borough of Newport to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Borough of Newport 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 such tax, or the validity of the tax so imposed on other persons or individuals as herein provided.