

Chapter 126

TAXATION

ARTICLE I Earned Income Tax

- § 126-1. Authorization.
- § 126-2. Incorporation by reference.
- § 126-3. Definitions.
- § 126-4. Imposition of tax.
- § 126-5. Administration - powers and duties of officer.
 - § 126-5.1. No exemptions from tax.
 - § 126-5.2. Individual tax returns and payments.
 - § 126-5.3. Employer withholding, remittance, and tax returns.
 - § 126-5.4. Tax Officer.
 - § 126-5.5. Interest, penalties, costs and fines.
 - § 126-5.6. Purpose/amendment and restatement/repeal.
 - § 126-5.7. Severability.
 - § 126-5.8. Construction.
 - § 126-5.9. Effective date.

ARTICLE II Late Payments

- § 126-6. Increase of penalty.

ARTICLE III (Reserved)

- § 126-7. through § 126-16. (Reserved)

ARTICLE IV Realty Transfer Tax

- § 126-17. Title.
- § 126-18. Statutory authority.
- § 126-19. Definitions; word usage.

- § 126-20. Imposition of tax.
- § 126-21. Evidence of payment.
- § 126-22. Exempt parties.
- § 126-23. Excluded transactions.
- § 126-24. Documents relating to corporations and members.
- § 126-25. Acquired companies.
- § 126-26. Credits against tax.
- § 126-27. Statement of value.
- § 126-28. Unlawful acts.
- § 126-29. Penalties and interest; suits for collection.
- § 126-30. Tax to be lien.
- § 126-31. Proceeds of judicial sale.
- § 126-32. Enforcement.
- § 126-33. Collection agent; fine for noncompliance.
- § 126-34. Rules and regulations.
- § 126-35. Construal of provisions.

ARTICLE V (Reserved)

- § 126-36. through § 126-42. (Reserved)

ARTICLE VI Property Tax

ARTICLE VII Local Economic Revitalization Tax Assistance Program

- § 126-43. Short title.
- § 126-44. Definitions.
- § 126-45. Exemption.
- § 126-46. Limitations.
- § 126-47. Schedules.

§ 126-48. **Applicability.**§ 126-51. **Repealer.**§ 126-49. **Procedure.**§ 126-52. **Severability.**§ 126-50. **Interpretation.**§ 126-53. **Effective date.**

[HISTORY: Adopted by the Town Board of the Town of Yorktown as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Earned Income Tax

[Adopted 5-22-1974 by Ord. No. 181; amended 3-14-2012 by Ord. No. 316]

§ 126-1. Authorization.

This article is hereby enacted pursuant to the authority granted by the Local Tax Enabling Act, P.L. 1257, known as Act No. 511 of 1965, effective January 1, 1966, as amended in Act 166 of 2002 and Act No. 32 of 2008, 53 P.S. § 6924.101 et seq., and as further amended and supplemented (known as the Local Tax Enabling Act and herein referred to as the "Act").

§ 126-2. Incorporation by reference.

Act 32 (53 P.S. §§ 6924.101 through 6924.901) and its definitions, duties, directives, rules, regulations, powers and penalties, as amended and supplemented, are hereby adopted by reference as if the same had been set forth fully herein.

§ 126-3. Definitions.

- A. The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

DOMICILE — The place where a person lives and has a permanent home and to which the person has the intention of returning whenever absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. A person can have only one state of domicile at a given time. Domicile is the voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce the person to adopt some other permanent home. In the case of a business, domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME — The compensation as required to be reported to or as determined by the Department of Revenue under § 303 of the Act of March 4, 1971, (P.L. 6, No. 2), known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section. Employee business expenses as reported to or determined by the Department of Revenue under Article III of the Tax Reform Code of 1971 shall constitute allowable deductions in determining earned income. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

NET PROFITS — The net income from the operation of a business, other than a corporation, as required to be reported to or as determined by the Department of Revenue under § 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section.

NONRESIDENT — A person or business domiciled outside the political subdivision levying the tax.

RESIDENT — A person or business domiciled in the political subdivision levying the tax.

TAX COLLECTION COMMITTEE (TCC) — The Tioga Tax Collection Committee established to govern this tax collection district for the purpose of income tax collection.

TAX COLLECTION DISTRICT (TCD) — The tax collection district is established under § 504 of Act 32.

TAX OFFICER/TAX COLLECTOR — The agency engaged to administer and collect earned income taxes for this tax collection district. Unless otherwise specifically provided, for purposes of the obligations of an employer, the term shall mean the tax officer for the tax collection district within which the employer is located, or, if an employer maintains workplaces in more than one district, the tax officer for each such district with respect to employees principally employed therein.

- B. In addition to the above definitions, this section incorporates by reference those words, phrases and definitions as listed in Act 32 (53 P.S. §§ 6924.101 through 6924.901), as amended and supplemented, and those words, phrases and definitions as listed in the Act of March 4, 1971, (P.L. 6, No. 2), known as the Tax Reform Code of 1971.

§ 126-4. Imposition of tax.

- A. Resident Tax - A tax at the rate of 0.5% is hereby levied on all earned income and net profits received and/or earned, as defined by Act 32, on residents of the Borough of Westfield.
- B. Nonresident Tax - A tax at the rate of 1% is hereby levied on all earned income and net profits received and/or earned by nonresidents for work done or services performed or rendered in the Borough of Westfield.
- C. All changes shall remain in effect on a calendar year basis without annual reenactment unless the rate of tax is subsequently changed.

§ 126-5. Administration - powers and duties of officer.

The collection and administration of the tax provided for in this article shall be performed by the Tax Officer appointed by the Tax Collection Committee. Said Tax Officer shall receive compensation for services and expenses as determined by agreement between the TCC and the Tax Officer. The Tax Officer shall have the powers as provided for by the Local Tax Enabling Act.¹

1. Editor's Note: See 53 P.S. § 6924.101 et seq.

§ 126-5.1. No exemptions from tax.

No exemptions or credits based on age or income, or any other conditions are granted by this article. Nothing in this article is intended to preclude or inhibit any credit or exemption imposed by act of law or regulation.

§ 126-5.2. Individual tax returns and payments.

Every taxpayer receiving earned income and earning net profits in any tax year shall file tax returns and pay tax in accordance with the Local Tax Enabling Act² and the policies and procedures of the TCC and Tax Officer. Tax imposed on net profits and all earnings not subject to withholding must be reported and paid on a quarterly basis in accordance with the Local Tax Enabling Act. A taxpayer is required to file a return even if no tax payment is due and owing.

§ 126-5.3. 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 and the policies and procedures of the TCC and Tax Officer.

§ 126-5.4. Tax Officer.

The tax will be collected from individuals and employers by the Tax Officer. The Tax Officer is authorized to file an action in the name of the Borough for the recovery of income taxes due to the Borough and unpaid. Nothing in this section shall affect the authority of the Borough to file an action in its own name for collection of income taxes under the Local Tax Enabling Act.

§ 126-5.5. 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 costs of collection, fees and reasonable attorney fees as may be permitted and imposed by the Tax Officer in accordance with authorization by the TCC. All definitions, duties, directives, rules, regulations, powers and penalties of the Local Tax Enabling Act, as amended and supplement, are incorporated by reference.

§ 126-5.6. Purpose/amendment and restatement/repeal.

The primary purpose of this article is to confirm the earned income and net profits tax currently imposed under 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 ordinance imposing a tax on earned income or net profits of individuals is amended and restated in its entirety to read as stated in this article. Any other prior ordinance or part of any prior ordinance conflicting with the provisions of this article is rescinded insofar as the conflict exists. To the extent the same as any ordinance in force immediately prior to adoption of this article, the

2. Editor's Note: See 53 P.S. § 6924.101 et seq.

provisions of this article are intended as a continuation of such prior ordinance and not as a new ordinance. If this article is declared invalid, any prior ordinance levying a similar tax shall remain in full force and effect and shall not be affected by adoption of this article. If any part of this article is declared invalid, the similar part of any prior ordinance levying a similar tax shall remain in effect and shall not be affected 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 ordinance in force prior to adoption of this article. Subject to the foregoing provisions of this section, this article shall amend and restate on the effective date any ordinance levying a tax on earned income or net profits in force immediately prior to the effective date.

§ 126-5.7. Severability.

The provisions of this article are severable and if any of its provisions are ruled by a court invalid or unconstitutional, such decision shall not affect or impair any of the remaining provisions of this article. It is declared to be the intention of the governing body of the Borough that this article would have been adopted if such invalid or unconstitutional provision had not been included.

§ 126-5.8. Construction.

This article is intended to be consistent with the Local Tax Enabling Act, and to include all necessary authorizations to permit the Tax Officer to take such tax collection, administration, disbursement, enforcement and other activities as authorized by the Local Tax Enabling Act, subject to the policies and procedures of the TCC.

§ 126-5.9. Effective date.

This article shall be effective April 1, 2012. It is the intention of the governing body of the Borough of Westfield that this article shall provide procedural modifications only to the previously adopted Earned Income Tax Ordinance, and no gap as to imposition of the tax set forth herein should be inferred.

ARTICLE II
Late Payments
[Adopted 3-10-1980]

§ 126-6. Increase of penalty.

The penalty for late payment of taxes due the Borough of Westfield, Tioga County, Pennsylvania, is hereby increased from 5% of the total amount of such taxes to 10% thereof.

ARTICLE III
(Reserved)

§ 126-7. through § 126-16. (Reserved)

ARTICLE IV
Realty Transfer Tax
[Adopted 8-13-2003 by Ord. No. 289]

§ 126-17. **Title.**

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

§ 126-18. **Statutory authority.**

This realty transfer tax is levied under authority of Article XI-D, entitled "Local Real Estate Transfer Tax," of the Pennsylvania Real Estate Transfer Tax Act, which is a new article added by Act 77-1986 (Act of July 2, 1986, No. 77, P.L. 318) to the Pennsylvania Real Estate Transfer Tax Act, Act 14-1981 (Act of May 5, 1981, No. 14, P.L. 36), as amended. The Pennsylvania Real Estate Transfer Tax Act is codified at 72 P.S. § 8101-C et seq., and Article XI-D is codified at 72 P.S. § 8101-D et seq. This realty transfer tax is also levied under authority of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, as amended.³

§ 126-19. **Definitions; word usage.**

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

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

COLLECTOR — The Recorder of Deeds of Tioga County, Pennsylvania, hereby appointed collector of the tax levied by this article.

CORPORATION — A corporation, joint-stock association, business trust or banking institution, which is organized under the laws of the Commonwealth of Pennsylvania, the United States or any other state, territory, 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 within the municipality, 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

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

solely grant, vest or confirm a public utility easement. Document shall also include a declaration of acquisition required to be presented for recording under § 126-25 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 recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing; 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; fur farming; stockyard and slaughterhouse operations; or 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 or 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.

MUNICIPALITY — The Borough of Westfield, Tioga County, Pennsylvania.

PERSON — Every natural person, association, corporation or entity of any kind. 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 —

- (1) Any lands, tenements or hereditaments, 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.
- (2) A condominium unit.
- (3) 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:

- (1) Derives 60% or more of its annual gross receipts from the ownership of disposition or real estate; or
- (2) 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.

REAL ESTATE TRANSACTION — The making, executing, delivering, accepting or presenting for recording of a document.

TITLE TO REAL ESTATE —

- (1) 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
- (2) 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. 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.

VALUE —

- (1) 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 the document 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.
- (2) 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, value shall be the actual monetary worth of the real estate within the municipality 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 in which the municipality is located as established by the State Tax Equalization Board or a commensurate part of the assessment where the assessment includes other real estate.
- (3) In the case of an easement or other interest in real estate, the value of which is not determinable under Subsection (1) or (2) of this definition, the actual monetary worth of such interest.
- (4) 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.

- B. The singular shall include the plural, and the masculine shall include the feminine and neuter.

§ 126-20. Imposition of tax.

A tax is hereby levied and imposed, for general municipal purposes, on every real estate transaction, at the rate of 1% of the value of the real estate represented by the document involved in the real estate transaction.

- A. The tax shall be payable at the earlier of the time the document is presented for recording, within 30 days of acceptance of the document or within 30 days of becoming an acquired company.
- B. If the real estate is located partially within and partially outside the municipality, the tax shall be calculated on the value of the portion within the municipality.
- C. The tax imposed hereunder shall be due and payable to the Collector, as a joint and several liability, by 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. In the case of an acquired company, the company shall also have liability for payment of the tax. All such persons shall also be liable for any penalties imposed under this article.
- D. It is the intent of this article that the entire burden of the tax imposed on a real estate transaction by the municipality and other political subdivisions shall not exceed the limitations prescribed in Section 8 of the Local Tax Enabling Act, 53 P.S. § 6908, so that if any other political subdivision imposes a tax on real estate transactions taxed under this article, the provisions of said Section 8 shall apply.

§ 126-21. Evidence of payment.

The payment of the tax imposed hereunder shall be evidenced by the Collector affixing on the document an official stamp or writing setting forth the date of payment of the tax and amount of tax paid.

§ 126-22. Exempt parties.

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

§ 126-23. Excluded transactions.

- A. The tax imposed by this article shall not be imposed upon:
- (1) A transfer to the Commonwealth of Pennsylvania 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.

- (2) A document which the municipality is prohibited from taxing under the Constitution or statutes of the United States.
- (3) A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff's sale or Tax Claim Bureau sale.
- (4) A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record, legal title or interest.
- (5) A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by co-tenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
- (6) 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, 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.
- (7) A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- (8) A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the Collector is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- (9) A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- (10) A transfer for no or nominal actual consideration from trustee to successor trustee.
- (11) A transfer for no or nominal actual consideration between principal and agent or straw party or from or to an agent or straw party where, if the agent or straw party were his or her 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 or her principal, there is a rebuttable presumption that the property is the property of the grantee in his or her individual capacity if the grantee claims an exemption from taxation under this subsection.

- (12) 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.
- (13) A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his or her 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.
- (14) A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
- (15) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:
 - (a) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conservation, energy production, pollution control, warehousing or agriculture; and
 - (b) The agency or authority has the full ownership interest in the real estate transferred.
- (16) A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or 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.
- (17) Any transfer between religious organizations or other bodies or persons holding title for a religious organization, if such real estate is not being or has not been used by such transferor for commercial purposes.
- (18) A transfer to a conservancy which possesses tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954 and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
- (19) 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.
- (20) A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.

- (21) A transaction wherein the tax due is \$1 or less.
 - (22) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.
- B. 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.

§ 126-24. Documents relating to corporations and members.

Except as otherwise provided in § 126-23, 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.

§ 126-25. 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, 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 to the Collector for recording and for the affixation of the official stamp or writing evidencing payment of the tax. Such declaration shall set forth the value of real estate holdings of the acquired company in the municipality.

§ 126-26. 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 or her 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 or her shall be given to him or her 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.

§ 126-27. Statement of value.

Every document lodged with or presented to the Collector for recording shall set forth therein and as 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, provided that the relationship is specified in the deed, instrument or writing. Documents which are not to be recorded shall be presented to the Collector and shall be accompanied by a certified copy of the document and 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. Evidence of payment shall be affixed to the original document and the certified copy. The certified copy and statement of value shall be filed with the Collector.

§ 126-28. Unlawful acts.

- A. It shall be unlawful for any person to:
 - (1) Make, execute, deliver, accept or present for recording or cause to be made, executed, delivered, accepted or presented for recording any document without the full amount of tax thereon being duly paid.
 - (2) Fail to record a declaration of acquisition as required by this article.
 - (3) Fraudulently affix to any document any forged evidence of payment.
 - (4) Fail, neglect or refuse to comply with or violate other provisions of this article or any rules and regulations promulgated by the municipality under this article or any rules and regulations of the Pennsylvania Department of Revenue to the extent applicable to the tax levied hereunder.

- B. Any person violating any of the provisions of this section shall be guilty of a summary offense.
- C. A person who makes a false statement of value or declaration of acquisition when he or she does not believe the statement or declaration to be true is guilty of a misdemeanor of the second degree.

§ 126-29. Penalties and interest; suits for collection.

- A. If any tax owing under the terms of this article shall not be paid when due, 10% of the amount of the tax shall be added and collected as an initial penalty for nonpayment or underpayment of the tax.
- B. In addition, if any tax owing under the terms of this article shall not be paid when due, a penalty shall accrue on the amount of the unpaid tax at the rate of 1% per month or fractional part of a month, on the amount of the unpaid tax, from the due date until the amount of the tax is paid in full.
- C. In addition, in the case of failure of any acquired company to record a declaration of acquisition as required by this article, unless it is shown to the satisfaction of the municipality that such failure is due to reasonable cause, a penalty shall accrue on the amount of the unpaid tax at the rate of 5% per month or fractional part of a month, on the amount of the unpaid tax, from the due date until the amount of the tax is paid in full. This penalty shall be in addition to all other penalties, but shall not in the aggregate exceed 50% of the amount of the unpaid tax.
- D. In addition, if any part of any underpayment of tax is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
- E. In addition, if the municipality files suit in order to collect the amount of any tax not paid when due under this article, at the discretion of the court, any person liable for payment of the tax shall also be liable for reasonable attorneys' fees incurred by the municipality in prosecution of the suit.
- F. No document upon which tax is imposed by this article shall at any time be made the basis of any action or other legal proceeding nor shall proof thereof be offered or received in evidence in any court of this commonwealth or recorded in the office of any Recorder of Deeds of any county of this commonwealth, unless the tax imposed hereunder shall have been paid in full and evidence of payment shall have been affixed thereto by the Collector.

§ 126-30. Tax to be lien.

The tax imposed by this article, together with all penalties, shall be a lien against the real estate to which the document relates and, in the case of an acquired company, the real estate owned by the acquired company. The lien shall date from the time when the tax is due and payable and shall continue until discharged by payment in full of the tax, together with all penalties. In order to enforce the lien, the municipality may proceed under the Municipal Claims and Tax Liens Act of 1923, 53 P.S. § 7101 et seq., or in any other appropriate manner.

§ 126-31. Proceeds of judicial sale.

The tax imposed under this article shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment or estate or other 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 or her 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.

§ 126-32. Enforcement.

- A. In order to determine whether the proper amount of tax has been paid, without limiting any other rights of the municipality, the municipality shall have the right to review all documents or records relating to any real estate transaction or any related transactions and to take such other steps as the municipality shall deem necessary or appropriate, including a review or audit of any documents or records of any party to a real estate transaction to determine the fair market value of the real estate or any other relevant matter as determined by the municipality. Upon request of the municipality and at such place and time as specified by the municipality, any party shall make available to the municipality any documents or records requested by the municipality.
- B. In the event that any tax is not paid when due, the municipality may enforce payment of the tax, together with all penalties, by suit in assumpsit or any other appropriate means.

§ 126-33. Collection agent; fine for noncompliance.

- A. As provided in 16 P.S. § 11011-6, the Recorder of Deeds of Tioga County shall be the collection agent for this tax, without compensation from the municipality.
- B. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Collector shall not accept for recording any document unless it is accompanied by a statement of value showing what taxes are due each political subdivision.
- C. On or before the 10th day of each month, the Collector shall pay over to the municipality all taxes collected under this article, less 2% for use of the county, and shall also provide a report containing the information 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. In accordance with Act 77-1986,⁴ any Recorder of Deeds who shall record any document upon which tax is imposed under this article without payment of tax as required under this article as is indicated in the document or accompanying statement of value shall, upon summary conviction, be sentenced to pay a fine of \$50 and costs of prosecution.

4. Editor's Note: See 72 P.S. § 8110-C.

§ 126-34. Rules and regulations.

The municipality may promulgate and enforce reasonable rules and regulations for the interpretation, collection and enforcement of the tax.

§ 126-35. Construal of provisions.

- A. To the extent this article imposes a tax on a real estate transaction which is subject to the Commonwealth of Pennsylvania realty transfer tax imposed by Act 77-1986,⁵ and to the extent not inconsistent herewith or with rules or regulations adopted by the municipality, this article shall be interpreted in the same manner as Act 77-1986 and in accordance with regulations promulgated thereunder.
- B. The provisions of this article, so far as they are the same as those of ordinances in force immediately prior to adopting of this article, are intended as a continuation of such ordinances and not as new enactments.
- C. This article shall impose a tax on all transactions which the municipality is permitted to tax under Act 77-1986 to the fullest extent permissible.
- D. In the event that this article is declared invalid, the prior ordinance or ordinances of the municipality levying a realty transfer tax shall remain in full force and effect and shall not be affected in any way by adoption of this article.
- E. The provisions of this article shall not affect any act done or liability incurred nor shall they affect any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any ordinance in force prior to adoption of this article.
- F. Subject to the provisions in this section, this article shall supersede, replace and repeal ordinances levying a realty transfer tax in force immediately prior to adoption of this article.

ARTICLE V
(Reserved)

§ 126-36. through § 126-42. (Reserved)

ARTICLE VI
Property Tax

[The millage rates are set annually. Current rates are on file in the Borough offices.]

5. Editor's Note: See 72 P.S. § 8102-C.

ARTICLE VII

**Local Economic Revitalization Tax Assistance Program
[Adopted 7-14-2010 by Ord. No. 310]****§ 126-43. Short title.**

This article shall be known as the "Westfield Borough Local Economic Revitalization Tax Assistance Ordinance."

§ 126-44. Definitions.

As used in this chapter:

DETERIORATED AREA — All areas in the Borough of Westfield, or those areas in the Borough which may, at a future date, be determined to be deteriorated by resolution of the Westfield Borough Council in accordance with the standards set forth in LERTA.

DETERIORATED PROPERTY — Any industrial, commercial or other business property, owned by an individual, association or corporation, and located in a "deteriorated area," as hereinafter defined, or any such property which has been the subject of an order by a government agency requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations.

IMPROVEMENT — Repair, 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.

§ 126-45. Exemption.

There is hereby exempted from real property taxation the assessed valuation of improvements to deteriorated properties in the amounts and in accordance with the provisions and limitations set forth in §§ 126-47 and 126-48 below.

§ 126-46. Limitations.

The tax exemption set forth in § 126-45 shall be limited to a tax exemption on the actual increase in assessed valuation attributable to the actual cost of the improvements, provided that such improvements are in compliance with all applicable laws, ordinances and regulations during the entire period of exemption.

§ 126-47. Schedules.

- A. The following schedule of taxes exempted shall apply to all properties satisfying the provisions and limitations hereinbefore and hereinafter set forth:

Schedule A	
Eligible Tax Year	Percentage of Tax Exemption on Eligible Assessments
Year 1	90%
Year 2	80%
Year 3	60%
Year 4	40%
Year 5	20%

- B. After Year 5 the exemption shall terminate and the property shall be taxed at 100% of the total assessment at the applicable property tax rate then in effect.

§ 126-48. Applicability.

- A. The exemption hereinbefore authorized shall be upon the property exempted and shall not terminate upon the sale or exchange of the property.
- B. The cost of improvements to be exempted in the schedule of taxes exempted existing at the time of the initial request for tax exemption shall be applicable to that exemption request, and subsequent amendments to this chapter, if any, shall not apply to requests initiated prior to the adoption of such an amendment.

§ 126-49. Procedure.

- A. Any person desiring a tax exemption pursuant to this chapter shall notify the Borough, or its designated officer, in writing on a form provided by such office, at the time such person secures his building permit, or if no building permit or other notification of improvement is required in a particular instance, at the time of commencement of construction.
- B. A copy of such exemption request shall be forwarded by the Borough, or its designated officer, to the Tioga County Board of Assessment and Revision of Taxes. Thereafter, such Board shall, after completion of the improvement, assess the improvement separately, calculate the amount of the assessment eligible for tax exemption in accordance with the limits established in this chapter and notify both the taxpayer and the Borough of the reassessment and of the amounts of the assessment eligible for an exemption. Appeals from the reassessment and the amounts eligible for the exemption may be taken by the taxpayer or by the Borough as provided by general law.
- C. The form hereinbefore prescribed shall require the following verified information:
 - (1) The date the building permit or alteration permit was issued for such improvements, if applicable;
 - (2) The type and scope of improvement;

- (3) A summary of the plan of the improvement;
 - (4) The estimated cost of the improvement;
 - (5) The person or persons performing the work on the improvements;
 - (6) The location of the property being improved;
 - (7) A statement as to whether or not the property has been condemned by any governmental body and the date of condemnation and, if so, the name of the governmental body and the date of condemnation; and
 - (8) Any additional information that the County Assessment Office or the Borough may require for the application of the provisions of this chapter.
- D. The application requirement set forth in Subsection A hereof shall be deemed to be mandatory. Failure of any person desiring a tax exemption to comply with the application requirements contained therein shall be conclusively presumed to be a waiver of any right to claim a real estate exemption as provided by this chapter.

§ 126-50. Interpretation.

Unless specifically defined otherwise, words and phrases used in this article shall be interpreted so as to give this article its most reasonable application.

§ 126-51. Repealer.

All ordinances or parts of ordinances conflicting with any of the provisions of this article are hereby repealed insofar as the same affects this article.

§ 126-52. Severability.

The provisions of this article are severable and if any of its sections, clauses or sentences shall be held unlawful, invalid, or unconstitutional, such provisions shall not affect or impair any of the remaining provisions of this article.

§ 126-53. Effective date.

This article shall become effective immediately after its final passage and adoption by the Borough Council of the Borough of Westfield.