

Chapter 186

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[HISTORY: Adopted by the Board of Supervisors of the Township of North Middleton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Earned Income Tax

[Adopted 5-3-1979 as Ch. XXIV, Part 1, of the 1979 Code of Ordinances; amended in its entirety 12-2-2010 by Ord. No. 2010-3]

§ 186-1. Definitions.

All terms defined in the Local Tax Enabling Act¹ 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. In 2011, it shall remain Cen Tax. Thereafter, in 2012, it shall be the entity as selected by the TCC pursuant to the provisions of Act 32.

EFFECTIVE DATE — January 1, 2011.

ENACTMENT — This article.

GOVERNING BODY — The Board of Supervisors of North Middleton Township.

LOCAL TAX ENABLING ACT — The Local Tax Enabling Act, as set forth in 53 P.S. § 6901 et seq., while such numbering and provisions remain in effect under Act 32 of 2008, and as set forth in 53 P.S. § 6924.101 et seq., when such numbering and provisions become effective under Act 32, and as amended in the future.

NONRESIDENT — A person, partnership, association or other entity domiciled outside the Township of North Middleton.

RESIDENT — A person, partnership, association or other entity domiciled in the Township of North Middleton.

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 taxing authority is assigned under the Local Tax Enabling Act.

TAX — The tax imposed by this enactment.

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

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

TAX YEAR — The period from January 1 to December 31.

TAXING AUTHORITY — North Middleton Township.

§ 186-2. Imposition of tax.

- A. General purpose resident 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. This tax is in addition to the separately levied local services tax.
- B. General purpose municipal nonresident tax. The taxing authority also imposes a tax for general revenue purposes at the rate of 1% 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 the boundaries of the taxing authority. This tax is in addition to the separately levied local services tax.
- C. Ongoing tax. The tax shall continue at the above rates during the current tax year and each tax year thereafter, without annual reenactment, until this enactment is repealed or the rate is changed by subsequent amendment by ordinance.
- D. Combined tax rate applicable to residents. Currently, the total rate applicable to residents of the taxing authority, including the tax imposed by the municipality in which the individual resides, is 1.6%.
- E. 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 1%.
- F. 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 enactment. 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 enactment upon the effective date of such amendment, without the need for formal amendment of this enactment, to the maximum extent allowed by 1 Pa.C.S.A. § 1937.
- G. 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.

§ 186-3. 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.

§ 186-4. 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.

§ 186-5. 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.

§ 186-6. Tax Collector.

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

§ 186-7. 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 costs imposed by the Collector in accordance with the Local Tax Enabling Act.

§ 186-8. Purpose/amendment and restatement/repeal.

The primary purpose of this enactment 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 imposing a tax on earned income or net profits of individuals is amended and restated in its entirety to read as stated in this enactment. Any other prior enactment or part of any prior enactment conflicting with the provisions of this enactment is rescinded insofar as the conflict exists. To the extent the same as any enactment in force immediately prior to adoption of this enactment, the provisions of this enactment are intended as a continuation of such prior enactment and not as a new enactment. If this enactment is declared invalid, any prior enactment levying a similar tax shall remain in full force and effect and shall not be affected by adoption of this enactment. If any part of this enactment is declared invalid, the similar part of any prior enactment levying a similar tax shall remain in effect and shall not be affected by adoption of this enactment. The provisions of this enactment 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 enactment. Subject to the foregoing provisions of this section, this enactment shall only amend and restate on the effective date any enactment levying a tax on earned income or net profits in force immediately prior to the effective date. Any other taxing enabling statutes or ordinances not inconsistent herewith shall remain in full force and effect.

§ 186-9. Effective date.

This article shall become effective by operation of law on January 1, 2011.

§ 186-10. through § 186-13. (Reserved)

ARTICLE II

Per Capita Tax

[Adopted 5-3-1979 as Ch. XXIV, Part 2, of the 1979 Code of Ordinances; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 186-14. Legislative authority; intent.

The Board of Supervisors of the Township of North Middleton, Pennsylvania, hereby imposes a per capita tax in accordance with the authority granted by the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, No. 511, as amended, 53 P.S. § 6924.101 et seq.

§ 186-15. Definitions.

In the construction of this article, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

RESIDENT — Every adult 18 years of age or older who lives within the Township.

TAX COLLECTOR — The person or agency designated by the Board of Supervisors to administer and collect the per capita tax.

§ 186-16. Tax rate; purpose.

A per capita tax at the rate of \$5 is hereby levied and assessed for general Township purposes upon each resident of the Township, which tax shall be in addition to all other taxes levied and assessed by the Township pursuant to any other laws of the Commonwealth of Pennsylvania.

§ 186-17. Exemptions.

Any resident whose total income from all sources is less than \$12,000 per annum is exempt from the imposition of the per capita tax. The Board of Supervisors shall have the authority to adopt regulations for the processing of claims for exemptions which must be complied with by any person claiming entitlement to an exemption.

§ 186-18. Collections.

The per capita tax shall be collected by the Tax Collector. The entry of a person's name on the per capita tax duplicate and the issuance of such duplicate to the Tax Collector shall constitute his or her warrant for the collection of the per capita tax hereby levied and assessed. The expense of collection and compensation of the Tax Collector shall be as provided by law.

§ 186-19. Duties of Tax Collector.

The Tax Collector shall give notice to residents, shall have the power to collect the per capita tax by any lawful means, shall have the power and authority to demand and receive taxes from the employer of any resident owing any per capita tax or whose spouse owes any per capita tax, shall remit the per capita taxes to the Township Treasurer, shall allow discounts and add penalties, and shall generally be subject to all the duties and shall have all the rights and authority conferred by the Local Tax Enabling Act.

ARTICLE III

Local Services Tax

[Adopted 12-6-2007 by Ord. No. 2007-6²]

§ 186-20. 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:

COLLECTOR — The person, public employee or private agency designated by North Middleton Township to collect and administer the tax herein imposed.

DCED — The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

EARNED INCOME — Compensation, as this term is defined in the Local Tax Enabling Act, 53 P.S. § 6924.501.³

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

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

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

NET PROFITS — The net income from the operation of a business, profession, or other activity, as this term is defined in the Local Tax Enabling Act, 53 P.S. § 6924.501.⁴

NORTH MIDDLETON TOWNSHIP or TOWNSHIP — The area within the corporate limits of North Middleton Township.

2. Editor's Note: This ordinance also repealed former Art. III, Emergency and Municipal Services Tax, adopted 1-3-2006 by Ord. No. 2006-1.

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

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

TAX — The local services tax at the rate fixed in § 186-21 of this article.

TAX YEAR — The period from January 1 until December 31 in any year; a calendar year.

§ 186-21. Levy of tax.

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008, upon the privilege of engaging in an occupation with a primary place of employment within North Middleton Township during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$52, assessed on a pro rata basis, in accordance with the provisions of this article. This tax maybe used solely for the following purposes as the same may be allocated by the Board of Supervisors from time to time: emergency services, which shall include emergency medical services, police services and/or fire services; road construction and/or maintenance; reduction of property taxes; or property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S.A. Chapter 85, Subchapter F (relating to homestead property exclusion). The Township shall use no less than 25% of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by North Middleton Township. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

§ 186-21.1. Exemption and refunds.

A. Exemption. Any person whose total earned income and net profits from all sources within the Township is less than \$12,000 for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

- (1) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one-hundred-percent disability.
- (2) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subsection, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

B. Procedure to claim exemption.

- (1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the Township and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Township of less than \$12,000 in the calendar year for which the exemption certificate is filed. In the event the Township utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the Township for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the Township or except as required by Subsection B(2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the Township.
 - (2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the Township that the person has received earned income and net profits from all sources within the Township equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the Township in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person under Subsection B(3).
 - (3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under Subsection B(2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under Subsection B(2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this subsection is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the Township may pursue collection under this article.
 - (4) Except as provided in Subsection B(2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.
- C. Refunds. The Township Manager, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the

general municipal law relating to refunds of overpayments and interest on overpayments. (NOTE: With respect to refunds, see 53 P.S. § 8425; with respect to interest, see 53 P.S. § 8426.) Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The Township Manager or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

§ 186-22. Duty of employers to collect.

- A. Each employer within North Middleton Township, as well as those employers situated outside North Middleton Township but who engage in business within North Middleton Township, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within North Middleton Township and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax from each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within North Middleton Township.
- B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest 1/100 of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Subsection D of this section. For purposes of this subsection, "combined rate" shall mean the aggregate annual rate of the tax levied by the school district and the Township.
- C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
- D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.
- E. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The Township shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the Township if the failure to withhold taxes 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. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of § 186-21.1B of this article and this section and remits the amount so withheld in accordance with this article.

- G. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of a calendar year.

§ 186-23. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

§ 186-24. Dates for determining tax liability and payment.

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the 30th day following the end of each calendar quarter of each such tax year.

§ 186-25. Self-employed individuals.

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within North Middleton Township shall be required to comply with this article and pay the pro rata portion of the tax due to the Collector on or before the 30th day following the end of each quarter.

§ 186-26. Individuals engaged in more than one occupation or employed in more than one political subdivision.

- A. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:
- (1) First, the political subdivision in which a person maintains his or her principal office or is principally employed;
 - (2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;

- (3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.
- B. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

§ 186-27. Nonresidents subject to tax.

All employers and self-employed individuals residing or having their places of business outside of North Middleton Township but who perform services of any type or kind or engage in any occupation or profession within North Middleton Township 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 North Middleton Township. Further, any individual engaged in an occupation within North Middleton Township and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his or her tax is not paid, the Township shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§ 186-28. Administration of tax.

- A. The Collector shall be appointed by resolution of the Board of Supervisors. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received.
- B. The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered, subject to Board of Supervisors approval, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal to the Court of Common Pleas of Cumberland 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.

§ 186-29. Suits for collection.

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.

- B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

§ 186-30. Violations and penalties. ⁵

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 90 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

§ 186-31. Interpretation

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

ARTICLE IV

Amusement Tax

[Adopted 1-4-1979 by Ord. No. 79-1]

§ 186-32. Short title.

This article shall be known and may be cited as the "North Middleton Township Amusement Tax Ordinance."

§ 186-33. Definitions.

Unless otherwise expressly stated, the following terms shall have, for the purpose of this article, the meanings herein indicated:

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

ADMISSION — Monetary charge of any character whatever, including donations, contributions and dues or membership fees (periodical or otherwise) charged or paid for the privilege of attending or engaging in amusements as hereinafter defined. "Admission" shall not include any tax added to the charge.

AMUSEMENT — All manner and form of entertainment, including, among others, the following: theatrical performance, operatic performance, carnival, circus, show, concert, lecture, sports event, vaudeville show, side show, amusement park and all forms of entertainment therein, dancing, golf, bowling, billiards or pool, athletic contests, including wrestling matches, boxing and sparring exhibitions, football, basketball and baseball games, ice skating, roller skating, tennis, hockey, bathing, swimming, archery, shooting, riding, racing and other form of diversion, sport, pastime or recreation, shows, exhibitions, contests, displays and games for which admission is charged or paid. The term "amusement" shall not include any form of entertainment the proceeds of which, after payment of reasonable expenses, inure exclusively to charitable institutions, societies or organizations, volunteer firemen's organizations, civic activities supported by tax funds. In addition, the term "amusement" shall not include motion-picture exhibitions nor sound motion-picture exhibitions.

COLLECTOR — The person appointed by the Township of North Middleton, Cumberland County, Pennsylvania, for the purpose of issuing permits and collecting the tax imposed by this article.

PERSON — Any natural person, firm, association, copartnership or corporation.

PRODUCER — Any person, as herein defined, conducting any place of amusement, as herein defined, where the general public or a limited or selected number thereof may, upon the payment of an established price, attend or engage in any amusement.

TOWNSHIP — North Middleton Township, Cumberland County, Pennsylvania.

§ 186-34. Imposition of tax.

- A. A tax is hereby imposed for general Township purposes under the authority of the Act of Assembly No. 511, dated December 31, 1965, as amended, known as the "Local Tax Enabling Act,"⁶ upon the admission fee or privilege to attend or engage in any amusement during the year 1979, to become effective 30 days from the date of enactment of this article through December 31, 1979, and all calendar years thereafter, within the Township, at the rate of 10% of the admission price, which shall be paid by the person acquiring such privilege, commencing 30 days from the date of enactment of this article to December 31, 1979, and thereafter on a calendar-year basis.
- B. Where no established price is charged, the tax shall be based upon the gross admissions collected.

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

§ 186-35. Permits.

- A. On or after January 1, 1979, any person desiring to conduct, or to continue to conduct, any amusement within the Township shall, before conducting the same, file with the Township Secretary-Treasurer an application, on a form to be furnished by the Township, for a permanent amusement permit or a temporary amusement permit, as the case may be, and shall pay the fee for such permit required by this section. In the case of any amusement that is to continue for longer than 30 days, a permanent amusement permit shall be issued at a fee as set from time to time by resolution of the Board of Supervisors. In the case of any amusement that is to continue for a period of 30 days or less, a temporary permit shall be issued at a fee as set from time to time by resolution of the Board of Supervisors.
- B. Permanent permits shall expire on December 31 of the year in which issued. Temporary permits shall be valid until the last day the amusement is conducted, but not exceeding 30 days from date of issue.
- C. The Township Secretary-Treasurer shall procure, at the expense of the Township, a sufficient number of permit forms, on each of which the following information shall be printed or inserted in ink or by typewriter:
- (1) The number of the permit;
 - (2) The name of the Township;
 - (3) Whether a temporary or a permanent permit;
 - (4) The name and address of the person receiving the permit;
 - (5) The location of the amusement covered by the permit;
 - (6) The type of amusement;
 - (7) The period for which the permit is issued;
 - (8) The date when the permit is issued;
 - (9) The signature of the Township Secretary-Treasurer.
- D. Every permit shall be issued in duplicate. The original, to which the seal of the Township shall be affixed, shall be given to the person applying for the permit and the duplicate shall be kept on file by the Township Secretary-Treasurer.
- E. In case of the loss, defacement or destruction of any permit, the person to whom the permit was issued shall apply to the Township Secretary-Treasurer, who may issue a new permit, for which a fee as set from time to time by resolution of the Board of Supervisors shall be charged.

§ 186-36. Collection.

- A. Producers shall collect the tax imposed by this article and shall be liable to the Township, as agents thereof, for the payment of same into the Township treasury, as hereinafter provided in this article.
- B. Where permits are obtained for conducting temporary amusements by persons who are not the owners, lessees or custodians of the place where the amusements are to be conducted or where the temporary amusement is permitted by the owner, lessee or custodian of any place to be conducted without the procurement of a permit or permits required by this article, the tax imposed by this article shall be paid by the owner, lessee or custodian of such place where such temporary amusement is held or conducted unless paid by the producer conducting the amusement.

§ 186-37. Reporting and payment.

- A. Every holder of a permanent permit shall, on or before the last day of every calendar month, transmit to the Township Secretary-Treasurer a report under oath of affirmation, on a form to be furnished by the Township, of the total amount of admissions charged and collected by him during the last preceding calendar month and of the total amount of tax due thereon under this article, and at the same time shall pay over to the Township Secretary-Treasurer the entire amount of said tax.
- B. Every holder of a temporary permit shall, at the close of each day on which the amusement is held, pay over to the Township Secretary-Treasurer the amount of tax due under this article from such person upon admissions charged or collected for such day, and at the same time shall submit to the Township Secretary-Treasurer a report on the form to be furnished by the Township Secretary-Treasurer of the total admissions charged or collected on such day and the total amount of tax due under this article, on such admissions. On the day of expiration of such temporary permit, the person to whom such permit is issued shall, in addition, submit to the Township Secretary-Treasurer a report on a form to be furnished by the Township Secretary-Treasurer, under oath or affirmation, of all admissions charged or collected during the period in which such temporary permit was in effect and of all taxes due, and the same time pay over to the Township Secretary-Treasurer the entire amount of all taxes due and remaining unpaid.
- C. A holder of a temporary permit who is a resident of the Township or who has a permanent place of business therein may submit the reports hereinabove required of the holder of a temporary permit and may make the payment hereinabove required of the holder of a temporary permit on the day following the days hereinabove specified.
- D. In any case, the Township Secretary-Treasurer shall furnish to the person paying any tax levied under this article a receipt for the payment of such tax.

§ 186-38. Failure to file; penalty.

If any report required to be filed in pursuance of this article shall not be filed within the prescribed time or if any tax levied in pursuance of this article shall not be paid when due, a penalty of 5% of the amount of the tax due and unpaid shall be added thereto, if the failure to

file the return or to pay the tax is for not more than 30 days, with an additional 5% for each additional 30 days, or fraction thereof, during which failure continues, not to exceed 25% of the aggregate.

§ 186-39. Record of admissions.

- A. Every person required by the provisions of this article to pay to the Township any tax on admissions must keep or cause to be kept an accurate record of admissions and reduced rate admissions. The records must show as to each class of admissions the following: All figures and other information necessary to determine the amount of the tax due and the amount of tax due.
- B. The records must be kept on file at the place of business or at some other convenient location and shall be available for inspection by the Township Secretary-Treasurer or other persons designated by the Supervisors of the Township.
- C. Such records shall contain sufficient information to enable the Secretary-Treasurer of the Township, or other person designated by the Supervisors of the Township, to determine whether the correct amount of tax has been paid. The records shall at all times be open to inspection by the Township Secretary-Treasurer or other person designated by the Supervisors of the Township.
- D. Any information gained by the Township Secretary-Treasurer or any other agent of the Supervisors of the Township as a result of any reports or investigations required or authorized by this article shall be confidential, except for official purposes, and except in accordance with proper judicial order or as otherwise provided by law. Any divulgence of any such information so gained is hereby declared to be a violation of this article.

§ 186-40. Authorization to examine records.

The Township Secretary-Treasurer, or other person designated by the Supervisors of the Township, is hereby authorized to examine any relevant books, papers and records of any person required under this article to secure a permit, in order to verify the accuracy of any report made or to ascertain and assess the tax imposed by this article.

§ 186-41. Assessment of tax and penalty.

- A. If any person required to secure a permit under this article shall fail to file a report at the time stipulated by this article, or shall file a report which on the face appears inaccurate, incorrect or incomplete, the Township Secretary-Treasurer shall make an assessment of such tax, or any deficiency thereof, against such person of the amount of the tax or deficiency for which such person is liable or for which the Township Secretary-Treasurer believes such person is liable, to which such assessment the Township Secretary-Treasurer shall add the penalties herein provided for and the aggregate amount so obtained shall be the basis of taxation.
- B. After such assessment, the Secretary-Treasurer of the Township shall give written notice of such assessment to the person liable for the tax imposed thereby. Such assessment

shall finally and irrevocably fix and determine the tax due unless such person shall appeal in writing to the Supervisors of the Township for a hearing within 30 days of the date of such notice. Such hearing by the Supervisors shall be held within 30 days of the request for hearing. Any person aggrieved by any decision of the Collector shall have the right of appeal to the Court of Common Pleas of Cumberland County within 30 days from the date of such decision; provided, however, that such appeal shall not act as a supersedeas unless specifically allowed by the Court. Promptly upon the filing of such appeal, the petitioner shall serve a copy of the Petition therefor and any Rule granted by the Court upon the Collector.

§ 186-42. Recovery of debts.

All taxes imposed by this article, together with all penalties, shall be recoverable by the Secretary-Treasurer of the Township as other debts of like amounts are recoverable.

§ 186-43. Violations and penalties. ⁷

Any person who violates or permits a violation of any of the provisions or requirements of this article or of neglecting, failing or refusing to furnish complete and correct reports or returns or to pay over any tax levied by this article at the time required shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this article. No judgment shall be imposed until the date of the determination of the violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day a violation exists shall constitute a separate offense. Such fine or penalty shall be in addition to any other penalty imposed by any other section of this article. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

ARTICLE V

Realty Transfer Tax

[Adopted 4-21-1987 by Ord. No. 87-2; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 186-44. Short title.

This article shall be known as the "Realty Transfer Tax of North Middleton Township."

⁷ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 186-45. Imposition of tax.

The Township of North Middleton adopts the provisions of Article XI-D of the Tax Reform Code of 1971 and imposes a realty transfer tax as authorized under that article subject to the rate limitations therein. The tax imposed under this section shall be at the rate of 1%.

§ 186-46. Administration.

The tax imposed under § 186-45 and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965 (P.L. 1257, No. 511), as amended, known as "The Local Tax Enabling Act," provided that, if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Township of North Middleton, pursuant to Section 1102-D of the Tax Reform Code of 1971 (72 P.S. § 8102-D), authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties.

§ 186-47. Interest.

Any tax imposed under § 186-46 that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. § 7101 et seq.), as amended, known as "The Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. § 806), as amended, known as "The Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

§ 186-48. through § 186-63. (Reserved)

ARTICLE VI

Income Tax Officer

[Adopted 1-3-1983 by Ord. No. 83-1]

§ 186-64. Appointment. [Amended 2-5-2009 by Ord. No. 2009-1⁸]

The Board of Supervisors of North Middleton Township shall, from time to time, by resolution, appoint the Income Tax Officer to collect earned income tax and local services tax in North Middleton Township until revoked by later resolution or ordinance. Each appointment by resolution will be conditioned upon North Middleton Township and the Income Tax Officer or collection entity reaching a satisfactory agreement reduced to writing and approved by further resolution properly enacted by North Middleton Township after the responsibilities, obligations and procedures to be employed by the Income Tax Officer on behalf of the Township have been established.

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).