

CHADDS FORD TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA

ORDINANCE NO. 172
CHADDS FORD TOWNSHIP TAX ORDINANCE

AN ORDINANCE AMENDING THE CHADDS FORD TOWNSHIP CODE OF ORDINANCES OF THE TOWNSHIP OF CHADDS FORD, DELAWARE COUNTY, PENNSYLVANIA BY RESCINDING EXISTING CHAPTER 116 TAXATION ORDINANCES, CONSOLIDATING AND CLARIFYING TAXATION ARTICLES, PROVIDING FOR THE WAIVER OF PENALTIES, INTEREST AND OTHER ADDITIONAL CHARGES FOLLOWING CERTAIN QUALIFYING EVENTS IN ACCORDANCE WITH ACT 57 OF 2022, AND ESTABLISHING REGULATIONS IN ACCORDANCE WITH THE LOCAL TAXPAYERS BILL OF RIGHTS.

WHEREAS, the Chadds Ford Township Board of Supervisors desires to consolidate and clarify all existing taxes into a single ordinance and provide clarification of the terms and consequences for late payment of same; and

WHEREAS, Act 57 of 2022 (Act of Jul. 11, 2022, P.L. 701, No. 57) (the "Act") amending the Local Tax Collection Law, 72 P.S. § 5511.1 et seq., was enacted July 11, 2022 and takes effect on October 10, 2022; and

WHEREAS, the Act requires taxing districts imposing taxes authorized under the Local Tax Collection Law to adopt an ordinance within ninety (90) days of the effective date of the Act, directing the Tax Collector to waive additional charges for real estate taxes in certain situations; and

NOW THEREFORE, the Chadds Ford Township Board of Supervisors hereby ENACTS AND ORDAINS this Ordinance as follows:

Section 1. The Chadds Ford Township Code of Ordinances, Chapter 116, Taxation, shall be and is hereby rescinded and replaced as follows:

ARTICLE I. TAXATION ON REAL PROPERTY

A. GENERAL.

- a. Taxation upon ownership. This Article shall set forth taxes upon the ownership of real property located in Chadds Ford Township.
- b. Notice of Tax Due. Taxpayers shall be mailed a Tax Notice stating the taxes due, and date by when they must be paid. This notice shall include

information about a discount period, face period and penalty period of payment, and method of payment.

- c. Discount. Taxpayers who make payment of the whole amount of the taxes due within two (2) months after the official date of the tax notice shall be entitled to a discount of two percent (2%) of the amount of such tax.
- d. Penalty. Taxpayers who fail to make payment of the whole amount of the taxes due within four (4) months after the official date of the tax notice shall be charged a penalty of ten percent (10%) of the amount of such taxes. Thereafter, at the close of the taxing year on December 31, delinquent taxes shall be turned over to the Delaware County Tax Claim Bureau for collection.
- e. Penalty Waivers.
 - i. Establishment of Waiver. Pursuant to the requirements of Act 57 of 2022, amending the Local Tax Collection Law, requiring taxing districts that impose taxes on the assessed value of real property to adopt an ordinance to provide for the waiving of Additional Charges for real estate taxes in certain circumstances, there is hereby established a waiver process for the Chadds Ford Township Tax Collector.
 - ii. Waiver process. The Tax Collector shall, for tax years beginning on and after January 1, 2023, grant a request to waive Additional Charges for real estate taxes if the taxpayer does all of the following:
 - 1. Provides a waiver request of Additional Charges, on a form provided by the state Department of Community and Economic Development, to the Tax Collector in possession of the claim within twelve (12) months of a Qualifying Event;
 - 2. Attests that a tax notice was not received; and
 - 3. Provides the Tax Collector in possession of the claim with one of the following:
 - a. A copy of the Deed showing the date of real property transfer; or
 - b. A copy of the Title following the acquisition of a mobile or manufactured home subject to taxation as real estate showing the date of issuance or a copy of an executed lease agreement between the owner of a mobile or manufactured home and the owner of a parcel of land on which the mobile or manufactured home will be situated showing the date the lease commences; and
 - 4. Pays the face value amount of the tax notice for the real estate tax with the waiver request, or provides Proof of Payment of penalty tax amount within twelve (12) months of a Qualifying Event.
- f. Penalties and Interest not Exclusive. The penalties and interest set forth above shall be in addition to any costs, penalties or interest assessed by the Delaware County Tax Claims Bureau for collection of delinquent taxes.
- g. Adjustment. All taxes in this Article approved by referendum at a set millage shall have their millages adjusted from time to time as may be required by the

Consolidated County Assessment Law, 53 Pa.C.S. §§ 8801 et seq., or any successor statute thereto.

- B. **GENERAL REAL ESTATE TAX.** Pursuant to the authority granted to the Township by the General County Assessment Law, 53 P.S. Sec 5020-101 et seq., as may be amended from time to time, or any successor statute thereto, a tax upon real property for general Township purposes is established by Chadds Ford Township. The rate of tax shall be set annually by the Board of Supervisors of Chadds Ford Township by Resolution.
- C. **FIRE HYDRANT ASSESSMENT**
- a. **Establishment of Assessment.** Pursuant to the authority granted to the Township by Section 3205 of the Second-Class Township Code, 53 P.S. Sec. 68205, as may be amended from time to time, or any successor statute thereto, an assessment upon certain real property for the establishment and maintenance of fire hydrants and fire hydrant water service is established by Chadds Ford Township. The rate of assessment shall be set annually by the Board of Supervisors of Chadds Ford Township by Resolution, and the assessment shall be collected in the same manner as the general real estate tax. Revenue generated by the assessment shall be placed in a separate account and designated for the purposes set forth in Article I Section C.c.
 - b. **Authorization to contract for Hydrants.** The Board of Supervisors of Chadds Ford Township is hereby authorized and empowered to enter into a contract or contracts with any water utility or authority for the placement, replacement, operation, maintenance and repair of fire hydrants in Chadds Ford Township and the maintenance of water pressures approved by the Fire Insurance Underwriters of the Commonwealth of Pennsylvania along certain highways, streets, roads and alleys, within the Township so as to provide fire protection service to and for nearby properties.
 - c. **Determination of Assessment.** The monies necessary for fulfilling the contract obligations contemplated by subsection b. above with respect to such present and future fire hydrants and fire protection service shall be assessed as follows: The Township Supervisors shall by Resolution annually assess, or cause to be assessed, the actual cost and expense of such fire protection services by an equal assessment upon all properties, whether or not exempt from taxation by existing law within 780' (seven hundred eighty feet) of any fire hydrant in the proportion that the assessment of any such property bears to the total assessment of all properties within 780' of any fire hydrant. No such assessment shall be levied against any farmland or land used as an aviation field or against property not within 780' of any fire hydrant.
- D. **OPEN SPACE TAX**
- a. **Establishment of Tax.** Pursuant to the authority granted to the Township (Act 115 of 2013) by 32 P.S. Sec 5007.1, as may be amended from time to time, or any successor statute thereto (collectively, "Act 115"), a tax is established

in Chadds Ford Township for the preservation and maintenance of open space. This tax was authorized by voter referendum in 2005.

- b. Commencement and Continuation. This tax shall continue without annual reenactment, until the enactment is repealed or the rate is changed.
- c. Collection and Deposit. All revenue collected from the Open Space Tax shall be deposited into a separate account and used only for purposes permitted by Act 115.

E. LIBRARY TAX

- a. Establishment of Tax. Pursuant to the authority granted to the Township by Section 15 of the Pennsylvania Public Library Code, 24 Pa. C.S.A. Sec 9315, as may be amended from time to time, or any successor statute thereto, there is hereby established a tax upon real estate to be used for the establishment, maintenance of and to provide aid to a local library as more fully set forth in the Public Library Code. This tax was authorized by voter referendum in 2004.
- b. Commencement and Continuation. This tax shall continue without annual reenactment, until the enactment is repealed or the rate is changed.

ARTICLE II. OCCUPATIONAL TAXES

A. BUSINESS PRIVILEGE TAX.

- a. Establishment of tax. Pursuant to the authority granted to the Township by the Local Tax Enabling Act, 53 P.S. Sec 6924.101 et seq. as may be amended from time to time, or any successor statute thereto, a business privilege tax was established in Chadds Ford Township for general revenue purposes.
- b. Amount of tax. The Township hereby imposes an annual business privilege tax on every BPT taxpayer engaging in a business, as defined in this article, in the amount of \$100. BPT taxpayers engaged in more than one business in the Township shall pay a separate tax for each separate business.
- c. Registration of Business.
 - i. Every BPT taxpayer who engages in or who continues to engage in or thereafter begins to engage in a business at an actual place of business in the Township shall, on or before the earlier of 31st day of January of each tax year, or within thirty days of the date such BPT taxpayer begins to engage in business in the Township, make application for registration for each place of business in the Township to the Tax Collection Agency.
 - ii. Each application for registration shall be signed by the applicant, if a natural person; in the case of an association or a partnership, by a member or partner thereof; and, in the case of a corporation, by an officer thereof. The application shall be made on a form furnished by the Tax Collection Agency and shall be accompanied by the annual tax of \$100.00. The Tax Collection Agency shall thereupon issue a certificate of registration to the applicant which

shall not be assignable, and which must be displayed at every business location within the Township or produced on demand. In the event of loss, defacement, or destruction of any such certificate, the applicant to whom the certificate has been issued shall apply to the Tax Collection Agency for a new certificate, for which a fee as set from time to time by resolution of the Board of Supervisors shall be charged.

- d. Exemption. Any BPT taxpayer required to pay a business privilege tax under the provisions of this article shall be exempted from paying such tax if such BPT taxpayer's annual gross receipts upon work performed in the Township are \$15,000 or less.
- e. Responsibilities of Tax Collection Agency and BPT taxpayers claiming exemption.

B. LOCAL SERVICES TAX

- a. Establishment of Tax. Pursuant to the authority granted to the Township by the Local Tax Enabling Act 53 P.S. Sec 6924.101 et seq., as may be amended from time to time, or any successor statute thereto, a local services tax is established upon the privilege of doing business in Chadds Ford Township. The revenue generated from the local service tax may be used, at the direction of the Board of Supervisors of Chadds Ford Township, for the following purposes:
 - i. Emergency services, which may include: emergency medical services; police services; and/or fire services;
 - ii. Road construction and/or maintenance;
 - iii. Reduction of property taxes; or
 - iv. Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. ch.85. Subch.F (relating to homestead property exclusion).
- b. Amount of tax. The local services tax shall be in the amount of \$52 per LST Taxpayer per annum. This tax is an addition to all other taxes of any kind or nature heretofore levied by Chadds Ford Township. The tax shall be no more than \$52 on each LST Taxpayer for each calendar year, irrespective of the number of political subdivisions within which an LST Taxpayer may be employed.
- c. Exemptions. The following LST Taxpayers shall be exempt from payment of the local services tax:
 - i. Any LST Taxpayer whose total earned income and net profits from all sources within the political subdivision is less than twelve thousand (\$12,000) dollars for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year;
 - ii. Any LST Taxpayer who has served in any war or armed conflict in which the United States was engaged and is honorable discharged or released under honorable circumstances from active service if, as a result of military service, the LST Taxpayer 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 (100%) percent disability.

- iii. Any LST Taxpayer 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 subparagraph, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

- d. Procedure to claim Exemption.

- i. An LST Taxpayer seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the LST Taxpayer's employer affirming that the LST Taxpayer reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection administrator, it shall provide a copy of the exemption certificate to that administrator. 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 political subdivision 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 political subdivision or except as required by Article II, Section B.d.ii, the employer shall not withhold the tax from the LST Taxpayer 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 political subdivision.
- ii. With respect to an LST Taxpayer who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the LST Taxpayer or by the political subdivision that the LST Taxpayer has received earned income and net profits from all sources within the political subdivision equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year or that the LST Taxpayer is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the LST Taxpayer of earned income within the municipality in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the LST Taxpayer under Article II, Section B.d.iii.
- iii. If an LST Taxpayer who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under subparagraph Article II, Section B.d.ii, the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the LST Taxpayer, for the

first payroll period after receipt of the notification under Article II, Section B.d.ii above, a lump sum equal to the amount of the tax that was not withheld from the LST Taxpayer due to the exemption claimed by the LST Taxpayer 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 LST Taxpayer subject to withholding of the tax under this clause is subsequently severed in that calendar year, the LST Taxpayer shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this Ordinance.

- iv. Except as provided in subparagraph Article II, Section B.d.ii, 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 service tax.
- e. Refunds. The Tax Collection Agency shall establish procedures for the processing of refund claims for any tax paid by an LST Taxpayer 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. Refunds made within seventy-five (65) days of a refund request or seventy-five (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 one dollar (\$1.00): The Tax Collection Agency shall determine eligibility for exemption and provide refunds to exempt LST Taxpayers.
- f. Duty of Employers to Collect.
 - i. Each employer within the Township, as well as those employers situated outside the Township but who engage in business within the Township, is hereby charged with the duty of collecting the tax from each of its employees engaged by it or performing for it within the political subdivision and making a return and payment thereof to the Tax Collection Agency. Further, each employer is hereby authorized to deduct this tax for each employee in its employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the Township.
 - ii. An LST Taxpayer subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the LST Taxpayer is engaging in an occupation. The pro rata share of the tax assessed on the LST Taxpayer for a payroll period shall be determined by dividing the 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 one-hundredth of a dollar., Collection of the tax shall be made on a payroll period basis for each payroll period in which the LST Taxpayer is engaging in an occupation, except as provided in Article II, Section B.f.iv.

- iii. No LST Taxpayer shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
 - iv. In the care 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 (2) weeks of its occurrence. The employee's statement shall be provided in the form approved by The Pennsylvania Department of Community and Economic Development.
 - v. The tax shall be no more than fifty-two dollars (\$52.00) on each LST Taxpayer for each calendar year, irrespective of the number of political subdivisions within which a LST Taxpayer may be employed. The Township shall provide a taxpayer a receipt of payment upon request by the taxpayer.
 - vi. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision 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 Article II, Section B.d and this subparagraph and remits the amount so withheld in accordance with this article.
 - vii. Employers shall be required to remit the local services taxes thirty (30) days after the end of each quarter of a calendar quarter.
- g. 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 Tax Collection Agency. 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.

- h. 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 Tax Collection Agency on or before the thirtieth day following the end of each calendar quarter of each such tax year.
- i. Self-Employed LST Taxpayers. Each self-employed LST Tax payer who preforms services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this Article II, Section B and pay the pro rata of the tax due to the Tax Collection Agency on or before the thirtieth day following the end of each quarter.
- j. LST Taxpayers engaged in more than one Occupation or Employed in more than one municipality. The situs of the tax shall be the place of employment on the first day the LST Taxpayer becomes subject to the tax during each payroll period. In the event a LST Taxpayer is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the LST Taxpayer to work 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:
 - i. First, the political subdivision in which an LST Taxpayer maintains his or her principal office or is principally employed;
 - ii. Second, the political subdivision in which the LST Taxpayer resides and works if the tax is levied by that political subdivision;
 - iii. Third, the political subdivision in which an LST Taxpayer is employed and which imposes the tax nearest in miles to the LST Taxpayer's home.
 - iv. In case of dispute, a tax receipt of the Township for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other municipalities.
- k. Non-residents Subject to Tax. All employers and self-employed LST Taxpayers residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the political subdivision.. Further, any LST Taxpayer engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed LST Taxpayer, and in the event his or her tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax ask hereinafter provided.
- l. Administration of Tax

- i. It shall be the duty of the Tax Collection Agency to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer of self-employed LST Taxpayer, together with the date the tax was received.
 - ii. The Tax Collection Agency is hereby charged with the administration and enforcement of this Article II, Section B and is hereby charged and empowered, subject to municipal approval, to proscribe, 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 LST Taxpayer aggrieved by any decision of the Tax Collection Agency shall have the right to appeal consistent with the Local Taxpayers Bill of Rights.
 - iii. The Tax Collection Agency is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Tax Collection Agency the means, facilities and opportunity for such examination.
- m. Suits for Collection
 - i. In the event that any tax under this Article II, Section B remains due or unpaid thirty (30) days after the due dates above set forth, the Tax Collection Agency may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.
 - ii. If for any reason the tax is not paid when due, interest at the rate of six percent (6%) on the amount of such tax shall be calculated beginning with the due date of the tax and penalty of five percent (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 LST Taxpayer liable therefor shall, in addition, be responsible and liable for costs of collection.
- n. Violations and penalties. 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 this 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 six-hundred (\$600.00) Dollars and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. The action to enforce the penalty herein prescribed may be instituted against any LST Taxpayer in charge of the

business of any employer who shall have failed or who refused to file a return required by this Article II, Section B.

o. Interpretation.

- i. Nothing contained in this Article II, Section B shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and Laws of the Commonwealth of Pennsylvania.
- ii. 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 LST Taxpayer, 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 LST Taxpayers or LST Taxpayers as herein provided.

C. LOCAL TAXPAYERS BILL OF RIGHTS

- a. Establishment. The Chadds Ford Township Board of Supervisors hereby establishes the following regulations as required by the Local Taxpayers Bill of Rights ("LTBoR"), Act 50 of 1998, 53 Pa.C.S.A. §§ 8421-8565.
- b. Requests for Taxpayer Information.
 - i. Taxpayers shall have at least 30 calendar days from the mailing date to respond to requests for information by the Township or the Tax Collection Agency. The Township or the Tax Collection Agency shall grant a reasonable extension upon written application explaining the reason(s) necessitating the extension, which must amount to good cause. If the Township or the Tax Collection Agency denies a request for extension, the Township or the Tax Collection Agency must inform the taxpayer in writing of the basis for the denial and that the taxpayer must immediately provide the requested information. If the Township or the Tax Collection Agency grants an extension request, he or she must notify the taxpayer in writing of the amount of extension granted. Generally, an extension will not exceed 30 calendar days in length, and may be less, depending on the circumstances.
 - ii. The Township or its Tax Collection Agency shall notify the taxpayer of the procedures to obtain an extension in its initial request for information.
 - iii. The Township shall take no lawful action against a taxpayer for the tax year in question until the expiration of the applicable response period for submission of the information requested, including extensions. For example, the Township may not engage in any collection efforts until after expiration of the response period. After expiration of the response period, the Township or

the Tax Collection Agency may engage in collection efforts permitted by the LTBoR and discussed in Article II, Section C.m.

iv. Requests for prior year tax returns.

1. Except as provided in subsection iv.2 below, an initial inquiry by the Township or the Tax Collection Agency regarding a taxpayer's compliance with any eligible tax may include taxes required to be paid or tax returns required to be filed no more than three years prior to the mailing date of the notice.
2. The Township or the Tax Collection Agency may make an additional subsequent request for a tax return or supporting information if, after the initial request, the taxing authority determines that the taxpayer failed to file a tax return, under reported income or failed to pay a tax for one or more of the tax periods covered by the initial request. Generally, however, neither the Township nor the Tax Collection Agency shall make routine requests for additional prior year returns.
3. Notwithstanding the foregoing, the limitations in subsection iv.2 above on subsequent requests for prior year returns shall not apply if the Township or the Tax Collection Agency has sufficient information to indicate that the taxpayer failed to file a required return or to pay an eligible tax which was due more than three years prior to the date of the notice. Thus, in situations involving failure to file a required return or to pay a required eligible tax, the Township or the Tax Collection Agency shall, in its discretion, have the ability to request prior year returns due more than three years prior and supporting information.

v. Use of federal or state tax information. The Township or its Tax Collection Agency may require a taxpayer to provide copies of the taxpayer's federal individual income tax return if the taxing authority can demonstrate that the federal tax information is reasonably necessary for the enforcement or collection of tax and the information is not available from other available sources or the Pennsylvania Department of Revenue. The Township or its Tax Collection Agency may also require a taxpayer to provide copies of the taxpayer's state individual income tax return.

c. Notice of basis of underpayment. The Township or its Tax Collection Agency must notify the taxpayer in writing of the basis for any underpayment that the taxing authority has determined to exist with respect to any eligible tax. The purpose of this notification is for the taxpayer to understand the exact reason why the Township believes an underpayment exists. This notification from the Township or its Tax Collection Agency shall be written in a manner calculated to be understood by an average person. The notification must include:

- i. The tax period or periods (usually measured in calendar years) for which the underpayment is asserted;
 - ii. The amount of the alleged underpayment of the eligible tax detailed by tax period;
 - iii. The legal basis (including any statutory or case law citations) upon which the taxing authority has relied to determine that an underpayment of an eligible tax exists; and
 - iv. An itemization of the changes made by the taxing authority to a return or report filed by the taxpayer that results in the determination that an underpayment exists. A copy of any revised return or report in the taxing authority's file must be provided to the taxpayer.
- d. Appeals.
 - i. A taxpayer has the legal right to challenge an assessment or denial of a refund claim under the LTBoR. However, a taxpayer has a right to one appeal only. If a taxpayer loses an assessment appeal, the taxpayer is not entitled to a second refund appeal after paying the tax. In addition, no administrative appeals are provided for other decisions, including, but not limited to, the denial of an extension of time to provide information or the modification or termination of an installment agreement.
 - ii. To begin the appeals process, the taxpayer must file a complete and timely petition (the "petition"). A petition is timely filed if the letter transmitting the petition is postmarked by the United States Postal Service or actually received on or before the final day on which the petition is due. Receipts from carriers other than the United States Postal Service are not accepted as proof of timely filing. Deadlines for filing a petition are as follows:
 - 1. Petitions challenging the denial of the refund shall be filed within three years after the due date for filing the report or return as extended or one year after actual payment of the tax, whichever is later. If no report or return is required, the petition shall be filed within three years after the due date for payment of the eligible tax or within one year after actual payment, whichever is later.
 - 2. Petitions for reassessment of tax shall be filed within 90 days of the date of the assessment notice which has been sent to the taxpayer by the Township or its Tax Collection Agency.
 - iii. The Township shall make available to taxpayers a form of petition for appeal and refund.
 - iv. Any appeal filed under Article II Section C.d shall at minimum:
 - 1. State the legal basis for claiming the refund or disagreeing with the taxing authority's assessment;
 - 2. State the tax period or periods (i.e., years) to which it pertains;

3. State the amount of the claim and the type of eligible tax detailed by the tax period;
 4. Include all supporting documentation and calculations;
 5. Provide the name, address and telephone number of the taxpayer's representative, if any;
 6. Include a statement certifying that the facts in the petition are true and correct, under penalty of perjury, and that the petition is not filed for purposes of delay; and
 7. Include such other information (essentially identification) as is reasonably requested by the taxing authority on the petition for appeal and refund provided to taxpayer.
- v. The taxpayer shall have the right to request a hearing in person or based on the petition and record (including information on file and information submitted by taxpayer). A hearing based only on the petition and record will not include any in person hearing or oral arguments. The Appeals Board shall have the right to deny an oral hearing and/or oral argument where the taxpayer has submitted an incomplete petition, or where the Appeals Board has determined that the appeal is frivolous, undertaken only for purpose of delay, or otherwise without merit. If an oral hearing is denied, the Appeals Board shall notify the taxpayer in writing of the denial and the basis for the denial.
- e. Appeals Board. An Appeals Board appointed by the Board of Supervisors shall consist of at least three, but not more than seven, members.
- i. Any taxpayer filing a petition under Article II Section C.d shall be entitled to a hearing and decision by the Appeals Board, subject to a request for hearing and the failure to deny the request for hearing. Decisions on petitions shall be issued within 60 days of the date the Township receives a complete and accurate petition. If the Appeals Board does not act within 60 days the petition shall be deemed approved.
 - ii. Any person aggrieved by a decision under this section who has a direct interest in the decision shall have the right to appeal to the Court of Common Pleas of the County of Delaware vested with the jurisdiction of local tax appeals by or pursuant to 42 Pa.C.S.A. § 5571(b).
 - iii. Decisions by the Appeals Board shall be made according to principles of law and equity.
 - iv. Conduct of hearings.
 1. A taxpayer may or may not choose to be represented by a taxpayer representative. The taxpayer representative may be a lawyer, certified public accountant, accountant or other tax advisor possessing appropriate tax training to represent taxpayers in tax appeals. The taxpayer must submit a written authorization to use a taxpayer representative. However, a simple letter signed by a

- taxpayer authorizing representation will be accepted as authorization. Such authorization shall include the representative's name, address and telephone number.
2. Copies of notices or communications may be sent by the taxing authority or other representative of the political subdivision to the taxpayer's representative. However, the original notice or communications will always be sent directly to the taxpayer. Action taken by the taxpayer's authorized representative (for example, requesting an extension of time or submitting factual information) shall have the same force or effect as if taken directly by the taxpayer.
 3. Reasonable notice of the hearing date will be provided to the taxpayer by the Appeals Board. The notice shall provide the date, time and place of a hearing.
 4. The Appeals Board may grant a taxpayer's written request for a continuance of a hearing. A request for continuance shall be granted only if supported by written reasons, and for good cause. A request for continuance must be received at least five days before the scheduled hearing date.
 5. The Appeals Board shall preside and keep order over any scheduled hearing. Hearings need not adhere to any technical rules of evidence, but oral testimony shall be taken under oath or affirmation. At the discretion of the Appeals Board, depositions or affidavits may be used in lieu of oral testimony.
 6. The Appeals Board shall have the authority to take the following actions:
 - i. Delegate the hearing schedule to an employee, agent or other designee;
 - ii. Regulate the conduct of hearings, including but not limited to scheduling, timing, recesses, reconvening, adjournment and any other acts necessary for the efficient conduct of a hearing;
 - iii. Administer oaths and affirmations;
 - iv. Receive evidence;
 - v. Permit reasonable examination and cross-examination of witness; and
 - vi. Require the production of written evidence such as books, records, documents and any other pertinent information.
 7. The Appeals Board's final decision shall be in writing and signed by the Appeals Board. The final decision shall be mailed to the taxpayer, with a copy also mailed to the taxpayer's authorized representative (if any).

f. Refunds.

- i. A taxpayer who has paid an eligible tax may file a written request for refund or credit. A request for refund shall be made within three years of the due date, as extended, for filing the report or tax return, or one year after actual payment of the tax, whichever is later. If no report is required the request shall be made within three years after the due date for payment of the tax or within one year after actual payment of the tax, whichever is later.
 - ii. A tax return filed by the taxpayer showing an overpayment shall be deemed to be a written request for a cash refund unless otherwise indicated on the tax return.
 - iii. A request for refund under this section shall not be considered a petition under Article II, Section C.d and shall not preclude a taxpayer from submitting a petition under Article II, Section C.d.
 - iv. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for refund shall be filed within one year of the date of payment.
- g. Disclosure Statement and taxpayer notice.
 - i. Any taxpayer contacted by the Township or its Tax Collection Agency regarding the assessment, audit, determination, review or collection of an eligible tax will receive a taxpayer notice. The notice shall be incorporated into any other correspondence sent to a taxpayer by the Township or its Tax Collection Agency regarding the assessment, audit, determination, review or collection of tax.
 - ii. The disclosure statement will be made available to taxpayers upon request at no charge to the taxpayer, including mailing costs. In general, the taxing authority will make reasonable efforts to supply all taxpayers with a copy of the disclosure statement.
- h. Interest on overpayment.
 - i. General rule. All overpayments of an eligible tax made to the local government shall bear simple interest from the date of overpayment of such eligible tax until the date of resolution.
 - ii. Interest rate. Interest on overpayments shall be paid at the same rate as the Commonwealth is required to pay pursuant to § 806.1 of the Act of April 9, 1929 (Pub. L. 343, No. 176) known as the Fiscal Code (72 P.S. § 1 et seq.)
 - iii. Exceptions to payments of interest:
 - 1. No interest shall be paid if an overpayment is refunded or applied against any other eligible tax, interest or penalty due to the local government with 75 days after the last date prescribed for filing the report or tax return of the tax liability or within 75 days after the date the return or report of the liability due is filed, whichever is later.
 - 2. Interest is not required to be paid on taxpayer overpayments of interest or a penalty(ies).
 - iv. Acceptance of refund check. The taxpayer's acceptance of a refund check from the taxing authority or political subdivision shall not prejudice any right of the taxpayer to claim any additional

overpayment and interest thereon. Tender of a refund check by the local government shall be deemed to be acceptance of the check by the taxpayer.

i. Abatement of certain interest and penalties.

i. Errors and delays. The purpose of this provision is to provide, in the discretion of the Township, a mechanism to abate (i.e., reduce) interest and/or penalties where an underpayment is the result of an error or delay in performance by a representative of the taxing authority. Accordingly, in the case of any underpayment, the taxing authority, in its discretion, may offer to abate all or any part of the interest relating to an eligible tax for any period for any one or all of the following reasons:

1. Any underpayment of an eligible tax finally determined to be due, which is attributable in whole or in part to any error or delay by the Township or its Tax Collection Agency in the performance of a ministerial act. For purposes of this subsection i.1, an error or delay shall be taken into account only if no significant aspect of the error or delay can be attributed to the taxpayer and after the taxing authority has contacted the taxpayer in writing with respect to the underpayment of tax finally determined to be due or payable.
2. Any payment of an eligible tax to the extent that any error or delay in the payment is attributable to an officer, employee or agent of the Township being erroneous or dilatory in performance of a ministerial act. The Township shall determine what constitutes timely performance of ministerial acts performed under this subsection.

ii. Erroneous written advice by the Township or the Tax Collection Agency.

1. The Township shall abate any portion of any penalty or excess interest attributable to erroneous advice furnished to the taxpayer in writing by an officer, employee or agent of the Township acting in the officer's, employee's or agent's official capacity if:
 - i. The written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer; and
 - ii. The portion of the penalty or addition to tax or excess interest did not result from a failure by the taxpayer to provide adequate or accurate information to the taxing authority.
2. Notwithstanding the foregoing, it shall be in the Township's sole discretion whether to provide written tax advice to a taxpayer. Taxpayers shall not have any right to compel the Township or its Tax Collection Agency to provide written tax advice.

- j. Application of payments. Unless otherwise specified by the taxpayer, all payments of an eligible tax shall be prioritized by the Township in the following order:
 - i. tax;
 - ii. interest;
 - iii. penalty; and
 - iv. any other fees and charges.
- k. Installment agreements. The Township has the discretion to enter into written agreements with any taxpayer under which the taxpayer is allowed to satisfy liability for tax in installment payments if the taxing authority determines that the installment agreement will facilitate collection. The Township may designate this discretion to its Tax Collection Agency.
 - i. Extent to which installment agreements remain in effect.
 - 1. Except as otherwise provided in Article II, Section C.k, any installment agreement the Township may enter into under this section shall remain in effect for the term of the agreement.
 - 2. The Township may terminate any prior installment agreement entered into under this section if:
 - i. Information which the taxpayer provided to the Township prior to the date of the installment agreement was inaccurate, false, erroneous or incomplete in any manner, determined in the reasonable discretion of the taxing authority; or
 - ii. The Township reasonably believes and has determined that collection of the eligible tax under the installment agreement is in jeopardy.
 - 3. If the Township finds that the financial condition of the taxpayer has significantly changed, the taxing authority may unilaterally alter, modify or terminate the installment agreement, but only if the following conditions are satisfied:
 - i. The Township provides a notice of its findings to the taxpayer no later than 30 days prior to the date of change of the installment agreement; and
 - ii. The notice given by the Township to the taxpayer provides the reasons why the Township believes that a significant change, justifying a change to the installment agreement, has occurred.
 - 4. The Township may unilaterally and without notification alter, modify or terminate an installment agreement entered into by the Township under this section if the taxpayer fails to do any of the following:
 - i. Pay any installation at the time it is due under the installment agreement;
 - ii. Pay any other liability relating to an eligible tax at the time the liability is due; and

- iii. Provide a financial condition update as requested by the Township or its Tax Collection Agency.
 - 5. No administrative appeal is permitted in the event of an alteration, modification or termination of an installment agreement. However, an appeal may be made to the Court of Common Pleas of this county.
 - ii. Prepayment permitted. Nothing in this section shall prevent a taxpayer from prepaying in whole or in part any eligible tax under any installment agreement with the Township.
- I. Confidentiality of tax information.
 - i. Any information obtained by the Township, its Tax Collection Agency or the Appeals Board, or any of their respective officers, agents, legal counsel, financial accountants or employees as a result of any audit, assessment, return, report, investigation, hearing, appeal or verification of a taxpayer shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for such persons to:
 - 1. Divulge or make known in any manner any confidential information obtained through any audit, return, assessment, investigation, report, appeal, hearing or verification of a taxpayer to any person other than the taxpayer or the taxpayer's authorized representative;
 - 2. Permit confidential tax information or any book containing any contract or particulars thereof to be seen or examined by any person other than the taxpayer or the taxpayer's authorized representative; and
 - 3. Print, publish or make known in any manner any confidential tax information of a taxpayer.
 - ii. An offense under this section is a misdemeanor of the third degree and, upon conviction thereof, a fine of not more the \$2,500 and costs, or a term of imprisonment for not more than one year, or both, may be imposed on the offender. If the offender is an officer or employee of the Township or the Appeals Board, the officer or employee shall be dismissed from office or discharged from employment.
- m. Collections. If after the decision of an appeal, or if no appeal is requested by a taxpayer, the Township may engage in efforts to collect any eligible tax determined to be legally due. Such efforts may include, but shall not be limited to, obtaining additional information, auditing taxpayer records, compromising the amount of tax, interest or penalty owed, obtaining liens on the taxpayer's property, or obtaining wage attachments, levies and seizures of the taxpayer's property. As provided in Article II, Section C.k, the Township may enter into a written installment agreement with the taxpayer if it determines that an installment agreement will facilitate collection. The Township also reserves the right to seek criminal prosecution of a taxpayer in appropriate circumstances. The Township

may delegate its authority to undertake the collection activity contemplated by this subsection to its Tax Collection Agency.

ARTICLE III. REALTY TRANSFER TAX

- A. Statutory authority. A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within Chadds Ford Township, regardless of where the documents making the transfer are made, executed or delivered or where the actual settlements on such transfer took place, as authorized by Article XI-D of the Tax Reform Code of 1971 entitled "Local Real Estate Transfer Tax," 72 P.S. § 8101-D et seq.
- B. Imposition of tax; interest.
 - a. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording shall be subject to pay for and in respect to the transaction or any part thereof a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the times the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.
 - b. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder whereon the date of the payment of the tax, the amount of the tax and the signature of the collecting agent shall be set forth.
 - c. It is the intent of this article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act 511 of December 31, 1965, P.L. 1257, 53 P.S. § 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by Chadds Ford Township under the authority of that Act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be 1/2 of the rate, and such 1/2 rate shall become effective without any action on the part of Chadds Ford Township; provided, however, that Chadds Ford Township and any other political subdivision which imposes such tax on the same person or transfer may agree that instead of limiting their respective rates to 1/2 of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.
 - d. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due shall be added and collected.
- C. Exempt parties. The United States, the commonwealth and any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.
- D. Excluded transactions.
 - a. The tax imposed by Article III.B.a shall not be imposed upon:
 - I. A transfer to the commonwealth or to any of its instrumentalities, agencies or political subdivisions by gift, dedication or deed in lieu of condemnation

or deed of confirmation in connection with condemnation proceedings or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property fine adjustments, provided that said reconveyance is made within one year from the date of condemnation.

- II. A document which Chadds Ford Township is prohibited from taxing under the Constitution or statutes of the United States.
- III. 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.
- IV. 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.
- V. A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties takes shares greater in value than their undivided interest, tax is due on the excess.
- VI. 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.
- VII. 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.
- VIII. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- IX. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- X. A transfer for no or nominal actual consideration from trustee to a successor trustee.
- XI. 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 principal, no tax would be imposed under this article. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.
- XII. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the

Department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article.

- XIII. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.
 - XIV. 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.
 - XV. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture and if the agency or authority has the full ownership interest in the real estate transferred.
 - XVI. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
 - XVII. 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.
 - XVIII. A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, [68A Stat. 3. 26 U.S.C. § 501(c)(3)] and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities or a transfer from such a conservancy to the United States Commonwealth or to any of their instrumentalities, agencies or political subdivisions.
 - XIX. 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.
 - XX. A transfer of real estate devoted to the business of agriculture to a family farm partnership by a member of the same family, which family directly owns at least 75% of the interests in the partnership.
 - XXI. A transfer between members of the same family of an ownership interest in a real estate company, family farm corporation or family farm partnership which owns real estate.
 - XXII. A transaction wherein the tax due is \$1 or less.
 - XXIII. 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. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may

be limited to an explanation of the reason such document is not subject to tax under this article.

E. Taxable Documents. Except as otherwise provided in Article III which make, confirm or evidence any transfer or devise 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.

F. Acquired company.

- i. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company, and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three years.
- ii. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this article.
- iii. A family farm partnership is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm partnership or when, because of transfer of partnership interests or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm partnership under this article.
- iv. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

G. Credits

- i. Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.
- ii. 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.
- iii. Where there is a transfer of real estate which is devised by the grantor, a credit for the amount of tax paid at the time of the

devise shall be given the grantor toward the tax due upon the transfer.

- iv. 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.
- v. 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.

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

I. Proceeds of judicial sale. The tax herein imposed shall be fully paid and shall have priority out of the proceeds or any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made, except the state realty transfer tax, and the sheriff or other officer conducting said sale shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed the purchaser shall be liable for the remaining tax.

J. Duties of Recorder of Deeds.

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

K. Statement of value. Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein and as a part of such document the true, full and complete value thereof or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such

document is not subject to tax under this article. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article.

L. Civil penalties.

- i. If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
- ii. In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

M. Lien. The tax imposed by this article shall become a lien upon the lands, tenements or hereditaments or any interest therein lying, being situated, wholly or in part within the boundaries of the Township of Concord, which lands, tenements, hereditaments or interest therein is described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this article, said lien to begin at the time when the tax under this article is due and payable and to continue until discharge by payment or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Delaware County in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. Section 7101 et seq., its supplements and amendments.

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

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

ARTICLE IV. DEFINITIONS As used in this Ordinance the following terms shall have the meanings indicated:

ADDITIONAL CHARGE. Any interest, fee, penalty or charge accruing to and in excess of the face amount of the real estate tax as provided in the real estate tax notice.

APPEALS BOARD. The Chadds Ford Township Board of Supervisors sitting in executive session, or their designees appointed in accordance with Article II, Section C.e.

ASSESSMENT. The determination by the Tax Collection Agency of the amount of underpayment by a taxpayer.

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

BUSINESS. Conduct or exercise of any trade, occupation, profession, financial business or other commercial activity, the sale of merchandise or other tangible personal property, the sale of real estate by brokers or agents, the rental of personal property or real estate and the performance of any service or services to the general public or a limited number thereof within, irrespective of whether it is conducted from an office located within Chadds Ford Township, or attributable to a place of business within Chadds Ford Township, except to the extent that such business is excluded from the imposition of the tax hereby imposed by any statute, regulation or judicial interpretation thereof.

BPT TAXPAYER. Any individual, partnership, limited partnership, association, corporation or other legal entity, except individuals employed for a wage or a salary, nonprofit corporations or associations as defined in this article, agencies of the United States government, agencies of the Commonwealth of Pennsylvania, political subdivisions of the Commonwealth of Pennsylvania and any authority or instrumentality created or organized under and pursuant to any act of assembly of the Commonwealth of Pennsylvania. Whenever used in any clause prescribing or imposing a penalty, the term "person", as applied to an association, shall mean the partners or members thereof and, as applied to a corporation, the officers thereof.

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

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

DOCUMENT Any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments or like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. "Document"

shall also include a declaration of acquisition required to be presented for recording under Article III.F.

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 or agriculture shall not be deemed to include:

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

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

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

FINANCIAL BUSINESS. The services and transactions of banks and bankers, of trust, credit and investment companies, of bonding companies, of dealers and brokers in money, credits, commercial paper, bonds, notes, securities, stocks and monetary metals and of factors and commission merchants, except to such extent as such business is excluded from the imposition of the tax hereby imposed by any statute, regulation or judicial interpretation thereof.

GROSS RECEIPT. Cash, credit or property of any kind or nature, received or allocable, or attributable to business conducted in the Township of Chadds Ford without deduction therefrom on account of the cost of property sold, of the material used or the labor, the service performed or any other cost of doing business.. "Gross Receipts" shall exclude, however, those items which are:

- a. Discounts allowed to purchasers as cash discounts for prompt payment of their bills.

- b. Charges advanced by a seller for freight, delivery or other transportation for the purchaser in accordance with the terms of a contract of sale.
- c. Received upon the sale of an article of personal property which was acquired by the seller as a trade-in in the extent that the gross receipts in the sale of the article taken in trade does not exceed the amount of the trade-in allowance made in acquiring such article.
- d. Refunds, credits or allowances given to a purchaser on account of defects in goods sold or merchandise returned.
- e. Taxes collected as agent for the United States, the Commonwealth of Pennsylvania and/or its political subdivisions.
- f. Based on the value of exchanges or transfers between one seller and another seller who transfers property with the understanding that property of an identical description will be retraded at a subsequent date; however, when sellers engaged in similar lines of business exchange property and one of them makes payment to the other in addition to the property exchanged, the additional payment received shall be included in the gross receipts of the seller receiving such additional cash payments.
- g. Receipts by dealers from sales to other dealers in the same line where the dealer transfers title or possession at the same price for which he acquired the merchandise.
- h. Transfers between one department, branch or division of a corporation or other business entity of goods, wares and merchandise to another department, branch or division of the same corporation or business entity and which are recorded on the books to reflect such interdepartmental transactions.
- i. Receipts from utility service of any person or company whose rates and services are fixed and regulated by the Pennsylvania Public Utility Commission or from any public utility services rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.
- j. Receipts from goods and articles manufactured in the Township, from the by-products of such manufacture, from minerals, timber, natural resources and farm products manufactured, produced or grown in the Township, or from preparation and processing thereof, or from any business relating to manufacturing, production, preparation or processing of materials, timber and natural resources or farm products by manufactures, producers and farmers with respect to goods, articles and products of their own manufacture, production or growth, including transportation, loading, unloading, damaging and storage of such goods articles, products or by-products.
- k. Receipts of nonprofit corporations or associations organized and operating under the laws of the Commonwealth of Pennsylvania or another state or associations organized for religious, charitable or educational purposes, agencies of the government of the United States or of the Commonwealth of Pennsylvania; the business of any political subdivision or of any authority created or organized under and pursuant to any act of assembly; or membership dues, fees or assessments of charitable, religious, beneficial or nonprofit organizations, including but not limited to sportsman's clubs, recreational clubs, golf clubs and tennis clubs, and Girl and Boy Scout troops and council.

INDIVIDUAL. Any natural person, firm or corporation engaged in any occupation, trade, business or profession within the limits of the political subdivision.

LIVING TRUST. Any trust, other than a business trust, intended as a will substitute by the settlor which becomes effective during the lifetime of the settlor, but from which trust

distributions cannot be made to any beneficiaries other than the settlor prior to the death of the settlor.

LST TAXPAYER. Any natural person engaged in any occupation, trade or profession within the corporate limits of the political subdivision.

LOCAL GOVERNMENT. Chadds Ford Township.

LOCAL TAXING AUTHORITY. Chadds Ford Township.

MEMBERS OF THE SAME FAMILY Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half-blood or legal adoption shall be treated as if they were related by the whole blood.

NET PROFITS. The net income from the operation of a business, profession, or other activity, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1251, Section 13,53 P.S. Sec.6913, as amended.

NONPROFIT CORPORATION OR ASSOCIATIONS..

- a. Organizations not for profit for the establishment and maintenance of a public or private college, secondary and elementary school or other educational institutions for the academic instruction and cultivation of the mind and/or the inculcation of moral and spiritual values, but not including an institution or organization directed primarily to physical training or development of physical or manipulative skills or any organization organized as such solely or primarily for the purpose of evading tax.
- b. Organizations non for profit, such as a convent, monastery, church or similar institutions, but not including one organized for a purpose not otherwise permitted by any such organization or solely or primarily as a religious institution for the purpose of evading tax.
- c. Organizations not for profit, organized and operating for the relief of poverty, the advancement of education, the advancement of religion or the promotion of health, government or other municipal purpose, but not including any organization organized as such solely or primarily for the purpose of evading tax.

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

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

OVERPAYMENT. Any payment of tax which is determined in the manner provided by law not to be legally due.

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

POLITICAL SUBDIVISION. The area within the corporate limits of Chadds Ford Township, a Second Class Township organized under the laws of the Commonwealth of Pennsylvania.

PROOF OF PAYMENT. A copy of front and back of check containing Tax Payment with clear processing markings made by the financial institution(s) receiving the payment, along with a list of parcels included in such payment should there be more than one parcel.

QUALIFYING EVENT

- a. For the purpose of real property, the date of transfer of ownership.
- b. For the purpose of a manufactured home, the date of transfer of ownership or the date a lease agreement commences for the original location or relocation of a manufactured or mobile home on a parcel of land not owned by the owner of the manufactured or mobile home. The term does not include the renewal of a lease for the same location.

REAL ESTATE All lands, tenements or hereditaments within this Township, including without limitation:

- a. Buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees, and other improvements, conveyance or land, but excluding permanently attached machinery and equipment in an industrial plant.
- b. A condominium unit.
- c. A tenant-stockholder's interest in an cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

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

- a. Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or
- b. Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

SERVICE. Any act or instance of assisting, helping, or benefiting another for a valuable consideration in money or money's worth.

TAX COLLECTION AGENCY. A person, public employee, or private agency duly appointed by resolution of the Supervisors of Chadds Ford Township to administer and collect tax.

TAX COLLECTOR. The elected tax collector for Chadds Ford Township, Delaware County, any authorized or designated delinquent tax collector, the Delaware County Tax Claim Bureau, or any alternative collector of taxes as provided for in the act of July 7, 1947 (P.L. 1368, No. 542), known as the "Real Estate Tax Sale Law," an employee, agent or assignee authorized to collect the tax, a purchaser of a claim for the tax or any other person authorized by law or contract to secure collection of, or take any action at law or in equity against the person or property of the taxpayer for any tax set forth in Article I or amounts, liens or claims derived from any such tax.

TAXPAYER. An individual, partnership, association, corporation, limited liability company, estate, trust, trustee, fiduciary or any other entity subject to or claiming exemption from any tax described in this Ordinance.

TAX YEAR. The twelve-month period beginning the 1st day of January and ending the 31st day of December in each such year unless otherwise specifically noted.

TEMPORARY, SEASONAL OR ITINERANT BUSINESS. Any business that is conducted at one location for less than 60 consecutive calendar days.

TITLE TO REAL ESTATE

- a. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including without limitation an estate in fee simple, life estate, or perpetual leasehold; or
- b. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend to 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.

TOWNSHIP. Chadds Ford Township.

TRANSACTION The making, executing, delivering, accepting, or presenting for recording of a Document.

UNDERPAYMENT. The amount or portion of any Eligible Tax determined to be legally due in the manner provided by law for which payment or remittance has not been made.

VALUE

- a. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate: provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;

- b. In the case of a gift, sale by execution upon a judgment or upon the foreclosure or a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations;
- c. In the case of an easement or other interest in real estate the value of which is not determinable under clause 1. or 2., the actual monetary worth of such interest; or
- d. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

Section 2. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid or unconstitutional by any Court of competent jurisdiction, such decision of the court shall not affect or impair the remaining section, sentences, clauses, parts of provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted as if such illegal, invalid or unconstitutional, section, sentence, clause part of provision had not been included therein.

Section 3. All ordinances which are inconsistent with this Ordinance are hereby expressly repealed to the extent of the inconsistency.

Section 4. This Ordinance shall be effective five (5) days from enactment.

ENACTED AND ORDAINED, this 3rd day of January, 2022, by the Board of Supervisors of Chadds Ford Township.

CHADDS FORD TOWNSHIP


SAMANTHA REINER, CHAIRMAN


NOELLE BARBONE, VICE CHAIRMAN

FRANK MURPHY, SUPERVISOR

ATTEST:

A handwritten signature in blue ink, appearing to read "Matt B", with a horizontal line extending from the end of the signature.

MATT BAUMANN, TOWNSHIP SECRETARY/MANAGER