
Chapter 85 — Realty Transfer Tax

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Article I — Title and Definitions

§ 85-101 Short Title.

This Chapter shall be known, and may be cited, as the “Alburtis Realty Transfer Tax Ordinance.”

§ 85-102 Definitions.

All words or phrases utilized in this Chapter which are defined in or have a particular meaning in the construction of Articles XI-C or XI-D of the Tax Reform Code of 1971, 72 PA. STAT. ANN. §§ 8101-C *et seq.*, 8101-D *et seq.*, and the regulations thereunder, shall have the same meaning for purposes of this Chapter.

Article II — Imposition of Tax

§ 85-201 In General; Authority.

A realty transfer tax for general revenue purposes is hereby imposed under Article XI-D of the Tax Reform Code of 1971, Local Real Estate Transfer Tax, 72 PA. STAT. ANN. § 8101-D *et seq.*, upon the transfer of real property or an interest in real property within the limits of the Borough of Alburtis, regardless of where the documents or instruments making the transfer are made, executed, or delivered or where the actual settlements on such transfer take place, at the rate of one percent (1.0%) of the value of the property so transferred, to the extent that the transactions are subject to the state realty transfer tax imposed by Article XI-C of the Tax Reform Code of 1971, 72 PA. STAT. ANN. § 8101-C *et seq.* A transfer of an interest in real property includes a change in the ownership interest of a company which holds real estate within the limits of the Borough of Alburtis to the extent the change renders the company an acquired company subject to the state realty transfer tax imposed by Article XI-C of the Tax Reform Code of 1971, 72 PA. STAT. ANN. § 8101-C *et seq.*; the tax is imposed with respect to the value of the real estate holdings of the company within the limits of the Borough of Alburtis. The tax imposed under this Chapter shall be due and payable at the same time as the corresponding state realty transfer tax is due and payable under Article XI-C of the Tax Reform Code of 1971, 72 PA. STAT. ANN. § 8101-C *et seq.*

Article III — Limitations

§ 85-301 Tax Also Imposed by Other Political Subdivisions.

It is the intent of this Chapter 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, 53 PA. STAT. ANN. § 6901 *et seq.*, so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer, then the tax levied by the Borough of Alburtis under the authority of that Act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half (1/2) of the rate, and such one-half (1/2) rate shall become effective without any action on the part of the Borough of Alburtis; *provided*, however, that the Borough of Alburtis and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half (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.

Article IV — Administration

§§ 85-401 through -408 have been deleted

§ 85-409 In General.

The tax imposed under this Chapter and all applicable interest and penalties shall be administered, collected, and enforced under the Local Tax Enabling Act, Act of December 31, 1965 (Pa. Laws 1257, No. 511), as amended, 53 PA. STAT. ANN. § 6901 *et seq.*, *provided*, however, that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Pennsylvania Department of Revenue is hereby authorized and directed to determine the tax, interest, and penalty as provided for in Section 1109-D of the Tax Reform Code of 1971, 72 PA. STAT. ANN. § 8109-D, and to collect and enforce the tax, interest, and penalty in the same manner as tax, interest, and penalty imposed by Article XI-C of the Tax Reform Code of 1971, 72 PA. STAT. ANN. § 8101-C *et seq.*

§ 85-410 Other Provisions of Article XI-D of the Tax Reform Code of 1971.

The tax imposed by this Chapter, and its administration and enforcement, is governed by the provisions of Article XI-D of the Tax Reform Code of 1971, 72 PA. STAT. ANN. § 8101-D *et seq.*, including but not limited to sections 1102-D(b) (relating to the required filing of a declaration), 1103-D (relating to Regulations of the Department of Revenue and administrative costs retained by the Department of Revenue), 1104-D (relating to Documentary Stamps), 1105-

D (relating to the recorder of deeds as Collection Agent), 1106-D (relating to Disbursements of amounts collected by the Department of Revenue), 1107-D (relating to Proceeds of Judicial Sale), 1108-D (relating to Failure to Affix Stamps), and 1109-D (relating to Determination and Notice of Tax; Review).

Article V — Interest and Penalties

§ 85-501 Interest.

If for any reason the tax imposed by this Chapter is not paid when due, interest shall be added and collected from the due date to the date of payment at the maximum interest rate permitted for delinquent municipal tax claims under the Municipal Claims and Tax Liens Act, Act of May 16, 1923 (Pa. Laws 207, No. 153), as amended, 53 PA. STAT. ANN. § 7101 *et seq.*

§ 85-502 Late Payment Penalty.

In the case of failure to record a declaration required under this Chapter on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax five percent (5.0%) of the amount of such tax if the failure is for not more than one (1) month, with an additional five percent (5.0%) for each additional month or fraction thereof during which such failure continues, not exceeding fifty percent (50%) in the aggregate.

§ 85-503 Fraud.

If any part of any underpayment of tax imposed by this Chapter is due to fraud, there shall be added to the tax an amount equal to fifty percent (50%) of the underpayment.

Appendix

¶ 85-A Disposition of Ordinance 254.

Ordinance 254 was never formally codified to the 1981 Code, but was unofficially printed to Chapter 117, Article III of the 1981 Code by General Code Publishers Corp. (*see* ¶ 85-B).

<u>Ordinance 254</u>	<u>2003 Codified Ordinances</u>
§ I	§ 85-101
§ II	§ 85-201
§ III (association)	§ 85-104
§ III (corporation)	§ 85-105
§ III (document)	§ 85-106
§ III (family farm corporation)	§ 85-107
§ III (members of same family)	§ 85-108
§ III (person)	§ 85-109
§ III (real estate)	§ 85-110
§ III (real estate company)	§ 85-111
§ III (transaction)	§ 85-112
§ III (value)	§ 85-113
§ IV(a)	§ 85-202
§ IV(b)	§ 85-402
§ IV(c)	§ 85-301
§ IV(d)	§ 85-501
§ V	§ 85-302
§ VI (except last paragraph)	§ 85-303
§ VI (last paragraph)	§ 85-304
§ VII	§ 85-203
§ VIII(a)	§ 85-103(a)
§ VIII(b)	§ 85-103(b)
§ VIII(c)	§ 85-204
§ IX(a)	§ 85-305(a)
§ IX(b)	§ 85-305(b)
§ IX(c)	§ 85-305(c)
§ IX(d)	§ 85-305(d)
§ IX(e)	§ 85-306
§ X	§ 85-407
§ XI	§ 85-408
§ XII	§ 85-404
§ XIII	§ 85-401
§ XIV(a)	§ 85-503
§ XIV(b)	§ 85-502
§ XV	§ 85-403
§ XVI	§ 85-406
§ XVII	§ 85-405
§ XVIII (severability)	
§ XIX (effective date)	

¶ 85-B Derivation of Former Semi-official Chapter 117, Article III to 1981 Code (after Ord. 254).

In 1988, General Code Publishers Corp. printed an unofficial codification of Ordinance 254 to Chapter 117, Article III of the 1981 Code, replacing the Article III adopted at the time the 1981 Code was enacted. Borough Council did not formally add Ordinance 254 to the 1981 Code, and did not formally adopt any of the numbering and stylistic changes made by General Code Publishers Corp. However, Ordinance 305 and following from the list of annual tax ordinances in ¶ 85-D “confirmed” the provisions of the Article printed by General Code Publishers Corp. for the year in question.

A copy of the GCP unofficial Chapter 117, Article III after Ordinance 254 is provided with the on-line and CD-ROM versions of the Codified Ordinances.

The provisions of the GCP unofficial Chapter 117, Article III were derived from Ordinance 254 as follows:

<u>Semi-official Chapter 117, Article III (after Ord. 254)</u>	<u>Ordinance 254</u>
§ 117-26	§ I
§ 117-27	§ II
§ 117-28	§ III
§ 117-29	§ IV
§ 117-30	§ V
§ 117-31	§ VI
§ 117-32	§ VII
§ 117-33	§ VIII
§ 117-34	§ IX
§ 117-35	§ X
§ 117-36	§ XI
§ 117-37	§ XII
§ 117-37.1	§ XIII
§ 117-37.2	§ XIV
§ 117-37.3	§ XV
§ 117-37.4	§ XVI
§ 117-37.5	§ XVII
	§ XVIII (severability)
	§ XIX (effective date)

§ 85-C Source Ordinances.

The following ordinances are the source of the text in this Chapter 85. This list does not include the ordinances listed in § 85-D which confirm the tax for a particular year.

Ordinance 254	05-13-1987
Ordinance 415	10-29-2003
Ordinance 451	12-27-2006

§ 85-D Annual Ordinances Confirming Tax.

1990	Ordinance 278	12-27-1989
1991	Ordinance 284	12-26-1990
1992	Ordinance 288	12-30-1991
1993	Ordinance 296	12-30-1992
1994	Ordinance 305	12-29-1993
1995	Ordinance 314	12-28-1994
1996	Ordinance 323	12-27-1995
1997	Ordinance 345	12-30-1996
1998	Ordinance 355	12-29-1997
1999	Ordinance 362	12-30-1998
2000	Ordinance 378	12-29-1999
2001	Ordinance 384	12-27-2000
2002	Ordinance 393	12-26-2001
2003	Ordinance 402	12-23-2002
2004	Ordinance 418	12-29-2003
2005	Ordinance 431	12-29-2004
2006	Ordinance 442	12-28-2005
2007	Ordinance 452	12-27-2006
2008	Ordinance 468	12-26-2007

2009	Ordinance 475	12-29-2008
2010	Ordinance 486	12-30-2009
2011	Ordinance 492	12-29-2010
2012	Ordinance 500	12-28-2011
2013	Ordinance 508	12-26-2012
2014	Ordinance 514	12-23-2013
2015	Ordinance 523	12-29-2014
2016	Ordinance 532	12-30-2015
2017	Ordinance 535	12-28-2016
2018	Ordinance 542	12-27-2017

§ 85-E Prior Ordinances Concerning Related Subject Matter.

Ordinance 178	05-12-1976
Ordinance 215	11-11-1981

§ 85-F Disposition of Ordinance 178 to Chapter 117, Article III of the 1981 Code (prior to Ord. 254).

Ordinance 178, as amended by Ordinance 215, was codified to Chapter 117, Article III of the 1981 Code. This material was superseded by Ordinance 254.

A copy of Chapter 117, Article III prior to Ordinance 254 is included with the CD-ROM and online versions of the Codified Ordinances.

<u>Ordinance 178</u>	<u>1981 Code (prior to Ord. 254)</u>
§ 1 (short title)	Not included.
§ 2	§ 117-26
§ 3	§ 117-27
§ 4	§ 117-28
§ 5	§ 117-29
§ 6	§ 117-30
§ 7	§ 117-31
§ 8	§ 117-32
§ 9	§ 117-33
§ 10	§ 117-34
§ 11	§ 117-35
§ 12 (severability)	

Ordinance 178

§ 13
§ 14

1981 Code (prior to Ord. 254)

§ 117-36
§ 117-37