

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 451

(Duly Adopted December 27, 2006)

AN ORDINANCE AMENDING CHAPTER 85 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO REALTY TRANSFER TAX) IN ACCORDANCE WITH ARTICLE XI-D OF THE PENNSYLVANIA TAX REFORM CODE OF 1971, AS AMENDED BY ACT 40 OF 2005, TO CREATE UNIFORMITY WITH THE STATE REALTY TRANSFER TAX, AUTHORIZE THE PENNSYLVANIA DEPARTMENT OF REVENUE TO DETERMINE, COLLECT, AND ENFORCE THE TAX, INTEREST, AND PENALTIES IF THE CORRECT AMOUNT OF THE TAX IS NOT PAID BY THE LAST DATE PRESCRIBED FOR TIMELY PAYMENT, CONTINUE TO IMPOSE THE TAX AT THE RATE OF ONE PERCENT (1.0%) OF THE VALUE OF THE REAL ESTATE, AND IMPOSE INTEREST ON DELINQUENT PAYMENTS AT THE MAXIMUM INTEREST RATE PERMITTED UNDER THE MUNICIPAL CLAIMS AND TAX LIENS ACT.

WHEREAS, the Borough of Alburtis has imposed a realty transfer tax since at least 1976, the current version of which is set forth in Chapter 85 of the Alburtis Codified Ordinances; and

WHEREAS, by Act 2005-40, the Pennsylvania General Assembly has authorized the Pennsylvania Department of Revenue to determine, collect, and enforce a municipality's tax, interest, and penalties if the correct amount of tax is not paid by the last date prescribed for timely payment, so long as the municipality's tax is uniform with the state realty transfer tax in most respects; and

WHEREAS, the Borough desires to so conform its realty transfer tax to permit state collections of delinquent tax, and make certain other changes;

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburtis, Lehigh County, Pennsylvania, as follows:

SECTION 1. Chapter 85, Article I of the Codified Ordinances (relating to Realty Transfer Tax—Title and Definitions) is hereby amended by revising existing § 85-102 (relating to Definitions—In General) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 85-102 Definitions—In General.

~~For purposes of this Chapter, the terms defined in the remaining Sections of this Article I shall have the meanings indicated, whether with or without initial capital letters, unless the context in which they are used clearly indicates a different meaning. 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.~~

SECTION 2. Chapter 85, Article I of the Codified Ordinances (relating to Realty Transfer Tax—Title and Definitions) is hereby amended by deleting therefrom existing §§ 85-103 through 85-113, inclusive (relating to various definitions).

SECTION 3. Chapter 85, Article II of the Codified Ordinances (relating to Realty Transfer Tax—Imposition of Tax) is hereby amended by revising existing § 85-201 as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 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 estate property or an interest in real estate property situated 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 took 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. as authorized by Article XI-D of the Tax Reform Code of 1971, Local Real Estate Transfer Tax, 72 PA. STAT. ANN. § 8101-D 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.

SECTION 4. Chapter 85, Article II of the Codified Ordinances (relating to Realty Transfer Tax—Imposition of Tax) is hereby amended by deleting therefrom existing §§ 85-202 (relating to Imposition), 85-203 (relating to Documents Relating to Associations or Corporations and Their Members, Partners, or Shareholders), and 85-204 (relating to Acquired Companies).

SECTION 5. Chapter 85, Article III of the Codified Ordinances (relating to Realty Transfer Tax—Limitations, Exemptions, and Credits) is hereby amended by changing the title of the Article to “Article III — Limitations”), and by deleting therefrom

existing §§ 85-302 (relating to Exempt Parties), 85-303 (relating to Excluded Transactions), 85-304 (relating to Exercise of Exclusion), 85-305 (relating to Credits), and 85-306 (relating to Effect of Credits).

SECTION 6. Chapter 85, Article IV of the Codified Ordinances (relating to Realty Transfer Tax—Administration) is hereby amended by deleting therefrom existing §§ 85-401 (relating to Statement of Value), 85-402 (relating to Evidence of Payment), 85-403 (relating to Lien), 85-404 (relating to Duties of Recorder of Deeds), 85-405 (relating to Duties of Borough Secretary; Regulations), 85-406 (relating to Enforcement), 85-407 (relating to Extension of Lease), and 85-408 (relating to Proceeds of Judicial Sale); adding an indication that “§§ 85-401 through –408 have been deleted”; and adding thereto the following new §§ 85-409 and 85-410:

§ 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).

SECTION 7. Section 85-501 of the Codified Ordinances (relating to Realty Transfer Tax—Interest and Penalties—Interest) is hereby amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 85-501 Interest.

If for any reason the tax imposed by this Chapter is not paid when due, interest ~~at the rate in effect at the time the tax is due~~ 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.

SECTION 8. The revisions to Chapter 85 of the Codified Ordinances made by this Ordinance 451 shall be effective on and be applicable to any document made, executed, delivered, accepted, or presented for recording on or after January 1, 2007.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburtis, this 27th day of December, 2006, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURTIS

Steven R. Hill, President

Attest:

Melanie Hansen, Secretary

AND NOW, this 27th day of December, 2006, the above Ordinance is hereby APPROVED.

Russell J. Afflerbach, Mayor