

## **ARTICLE VI**

### **EARNED INCOME TAX**

*History: Adopted by the Board of Supervisors of Center Township as Resolution, March 5, 1965, as amended by Ordinance No. 2016-11-03, November 9, 2016.*

#### **§18-601. Authorization**

This Ordinance is enacted pursuant to the authority granted by the Local Tax Enabling Act, P.L. 1257, known as Act No. 511 of 1965, effective January 11 1966, as thereafter amended through in Act 166 of 2002 and Act No. 32 of 2008, 53 P.S. Sec. 6924.101 *et seq.* (known as the Local Tax Enabling Act and herein referred to as the "Act"). The provisions contained herein are made for the purpose of amending and supplementing the Local Tax Enabling Act as adopted by the Township by Resolution of March 5, 1966.

#### **§18-602. Incorporation by Reference**

The Center Township Board of Supervisors hereby adopts by reference, Act 32, as from time to time amended (53 P.S. §6924.101 through 53 P.S. §6924.901) and its definitions, duties, directives, rules, regulations, powers and penalties as if same had been set forth fully herein.

#### **§18-603. Definitions**

As used in this article, the following terms shall have the meanings indicated:

**ASSOCIATION** - A partnership, limited partnership, or any other unincorporated group of two or more persons.

**BUSINESS** - An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit, or ordinarily conducted for profit, whether by persons, partnership, association or any other entity.

**CORPORATION** - A corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency.

**CURRENT YEAR** - The calendar year for which the tax is levied.

**DOMICILE** - The place where one lives and has his permanent home, and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntary fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses, or association, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

**EARNED INCOME** - Salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or property; not including , however, wages or compensation paid to persons on active military service,

periodic payments for sickness, disability other than regular wages received during a period of sickness, disability or retirement or payments arising under Workmen's Compensation Acts, Occupational Disease Acts and similar legislation, or payments commonly recognized as old age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, or payments commonly known as public assistance, or unemployment compensation payments made by any governmental agency or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs, including, but not limited to, programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement. Compensation as determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and regulations in 61 Pa. Code Pt. I Subpt. B Art. V (relating to personal income tax). Employee business expenses are allowable deductions as determined under Article III of the "Tax Reform Code of 1971." The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

**EMPLOYER** - A person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, or any other entity employing one or more persons for a salary, wage, commission or other compensation.

**INCOME TAX OFFICER OR OFFICERS** - A person, public employee or private agency designated by the governing body to collect and administer the tax on earned income and net profits.

**NET PROFITS** - The net income from the operation of a business, profession, or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession, or other activity, but without deduction of taxes based on income determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and regulations in 61 Pa. Code Pt. I Subpt. B Art. V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

- (1) any interest earnings generated from any monetary accounts or investment instruments of the farming business;
- (2) any gain on the sale of farm machinery;
- (3) any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and
- (4) any gain on the sale of other capital assets of the farm.

**NONRESIDENT** - A person, partnership, association or other entity domiciled outside the taxing district.

**PERSONS or INDIVIDUALS** - A natural person.

**PRECEDING YEAR** - The calendar year before the current year.

**RESIDENT** - A person, partnership, association or other entity domiciled in the taxing district.

**SUCCEEDING YEAR** - The calendar year following the current year.

**TAXPAYER** - A person, partnership, association, or any other entity required hereunder to file a return of earned income or net profits, or to pay a tax thereon.

#### **§18-604. Imposition of Tax**

A tax at the rate of one percent (1%) on each dollar is hereby imposed on all earned income and net profits, as defined by Act 32, earned by residents of Center Township and on all earned income and net profits earned by nonresidents of Pennsylvania employed in or receiving work assignments within Center Township. All changes shall remain in effect on a calendar year basis without annual reenactment unless the rate of tax is subsequently charged.

#### **§18-605. Declaration and Payment of Tax**

A. Net profits.

1. Every taxpayer making net profits shall on or before April 15 of each year make and file with the officer, on a form prescribed by the officer, a declaration of his estimated net profits during the period beginning January 1 and ending December 31 of the current year and pay to the officer in four equal quarterly installments the tax due thereon as follows: the first installment on or before April 15 of the current year, July 15 of the current year, and January 15 of the succeeding year.
2. On or before April 15 of the succeeding year, every taxpayer shall make and file a return on a form prescribed by the officer showing the amount of net profits earned, the total amount of tax due and the total amount of tax paid thereon. At the time of filing the return, the taxpayer shall pay to the officer the balance of the tax due, or shall make demand for refund or credit in the case of overpayment. An incomplete or improperly completed tax return shall be considered as not having been filed. Each final return shall be substantiated and supported by such United States Federal Income Tax Return forms as required by the officer, which shall at least include a copy of the federal W-2 form in the case of an earned income taxable, and Schedule C of the federal return as to a net profits taxable.

B. Earned Income.

Every taxpayer shall, on or before April 15, of the succeeding year, make and file with the officer a final return showing the amount of earned income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment. An incomplete or improperly completed tax return shall be considered as not having been filed. Each final return shall be submitted and

supported by such United States Federal Income Tax Return forms as required by the officer, which shall include a copy of the federal W-2 form in the case of an earned income taxable, and Schedule C of the federal return as to a net profit taxable.

C. Earned income not subject to withholding.

Every taxpayer who is employed for a salary, wage, commission, or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the officer on a form prescribed or approved by the officer, a quarterly return on or before April 30 of the current year, July 31 of the current year, October 31 of the current, and January 31 of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to the tax, together with such other information as the officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the officer the amount of tax shown as due thereon.

**§18-606. Collection at Source**

- A. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within Center Township who employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof the tax imposed by Center Township on the earned income due to his employee or employees and shall, on or before April 30 of the current year, July 31 of the current year, October 1 of the current year, and January 31 of the succeeding year, file a return and pay to the officer the amount of taxes deducted during the preceding three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively. Such return, unless otherwise agreed upon between the officer and employers, shall show the name and Social Security Number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivision imposing the tax upon such employee and the political subdivision in which the employee resides, the total earned income of all such employees during such preceding three-month period, and the total tax deducted therefrom and paid with the return.
- B. An employer who, for two of the preceding four quarterly returns, has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the officer on or before the last day of the month succeeding the month for which the tax was withheld.
- C. On or before February 28 of the succeeding year, every employer shall file with the officer:
  - 1. An annual return showing the total amount of earned income paid, the total amount of tax deducted, and the total amount of tax paid to the officer for the period

beginning January 1 of the current year and ending December 31 of the current year.

2. A return showing withholding statement for each employee employed during all or part of the period beginning January 1 of the current year and ending December 31 of the current year setting forth the employee's name, address, and Social Security Number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, and the amount of tax paid to the officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.
- D. Every employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.
- E. Except as otherwise provided, every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.
- F. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirement of the sections relating to the filing of declarations and returns.

#### **§18-607. Administration - Powers and Duties of Officer**

The collection and administration of the tax provided for in this Ordinance shall be performed by the Tax Officer appointed by the Butler County Tax Collection Committee. Said Tax Officer shall receive such compensation for his services and expenses as determined from time to time by the TCC. Such Tax Officer shall administer and have the powers and duties as provided for by Act 32 and the Local Tax Enabling Act.

#### **§18-608. Suit for Collection of Tax**

- A. The officer may sue in the name of the Township of Center for recovery of taxes due and unpaid under this article.
- B. Any suit brought to recover the tax imposed by this article shall begin within three years after such tax is due, or within three years after the declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:
  1. Where no declaration or return was filed by any person, although a declaration or return was required to be filed by him under provisions of this article, there shall be no limitation.
  2. Where an examination of the declaration or return filed by any person, or of other evidence relating to such declaration or return in the possession of the officer, reveals a fraudulent evasion of taxes, there shall be no limitation.

3. In the case of substantial understatement of tax liability of 25% or more and no fraud, suit shall begin within six years.
  4. Where any person has deducted taxes under the provisions of this article, and has failed to pay the amounts so deducted to the officer, or where any person has willfully failed or omitted to make the deductions required by this section, there shall be no limitation.
  5. This section shall not be construed to limit the Township of Center from recovering delinquent taxes by any other means provided by law.
- C. The officer may sue for recovery of an erroneous refund provided such suit is begun two years after making after making such refund, except that the suit may be brought within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.
- D. Compliance with the requirements of this section shall not relieve any individual or entity of the necessity of compliance with the requirements of any other Ordinance.

### **§18-609. Interest and Penalties**

If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of 1/2 of 1% of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

### **§18-610. Violations and Penalties: Fines**

- A. Any person who fails, neglects, or refuses to make any declaration or return required by this article, any employer who fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this article shall, upon conviction thereof before any District Justice, or court of competent jurisdiction in the county, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and, in default of payment of said fine and costs, to be imprisoned for a period not exceeding 30 days. Each violation shall constitute a separate offense, punishable by a like fine or imprisonment for each day of continued violation.
- B. Any person who divulges any information which is confidential under the provisions of this article shall, upon conviction thereof before any District Justice, or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and, in default of payment of said fines and costs, to be imprisoned for a period not exceeding 30 days.
- C. The penalties imposed under this section shall be in addition to any other penalty imposed by any

other section of this article.

- D. The failure of any person to receive or procure forms required for making the declaration or returns required by this article shall not excuse him from making such declaration or return.
- E. Any person or entity which fails to comply with the reporting requirements of Section 9 of this article, shall, upon conviction thereof before any District Justice or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and, in default of payment of said fines and costs, to be imprisoned for a period not exceeding 30 days.