

RESOLUTION NO. 82-125

A RESOLUTION OF THE TOWNSHIP OF HOPEWELL, COUNTY OF BEAVER, PENNSYLVANIA, PROMULGATING AND ESTABLISHING CERTAIN RULES AND REGULATIONS TO BE UTILIZED IN THE ADMINISTRATION OF ORDINANCE NO. 69-7 RELATING TO THE TAX ON EARNED INCOME AND NET PROFITS

WHEREAS, the Township of Hopewell duly enacted Ordinance No. 69-7 on November 16, 1969, said Ordinance establishing a tax on earned income and net profits; and


WHEREAS, the Township of Hopewell deems it desirable that certain rules and regulations (as set forth in Exhibit "A" attached hereto), be established for the purpose of proper administration of Ordinance No. 69-7;

NOW THEREFORE, be it resolved that the Board of Commissioners of the Township of Hopewell, a Municipal Corporation, under the First Class Township Code, situated in Beaver County, Pennsylvania, hereby resolves:

1. That the Rules and Regulations For Tax on Earned Income and Net Profits, which Rules and Regulations are marked Exhibit "A" and are attached hereto and made a part hereof, are adopted for the purpose of administering and/or enforcing Ordinance 69-7.

ADOPTED the 9th day of November, 1982,

ATTEST:


Secretary

BOARD OF COMMISSIONERS OF HOPEWELL
TOWNSHIP:


President

**RULES AND REGULATIONS
FOR
TAX ON EARNED INCOME AND NET PROFITS**

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RULES AND REGULATIONS
FOR
TAX ON EARNED INCOME AND NET PROFITS

All residents and employers within the Township of Hopewell and the Hopewell Area School District, are subject to these Rules and Regulations and to the Earned Income Tax Resolutions/Ordinances of the School District and the respective Municipality levying a tax on earned income and net profits and requiring resident employers to withhold the tax from their employees.

The Tax Resolutions/Ordinances and these Rules and Regulations are continuing ones, applicable until changed by the School District and Municipality. Copies of the original Tax Resolutions/Ordinances may be examined at the Municipal Offices.

ARTICLE I
DEFINITIONS

The following words and phrases used in the Tax Resolutions/Ordinances and in these Rules and Regulations have the following meanings unless the context clearly indicates a different meaning:

"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. A domicile, once established, continues until a new one is established, coupled with the abandonment of the old. Every person has one and only one domicile.

"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 in property; not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness and 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 payment 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.

"EMPLOYEE" - A natural person employed by an "employer" on a salary, wage, commission or other compensation basis.

"EMPLOYER" - A natural person, partnership, association, corporation, governmental body or unit or agency or any other entity employing one or more persons on a salary, wage, commission or other compensation basis.

"INCOME TAX OFFICER" or "OFFICER" - 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 accrued basis in accordance with the accounting system used in such business, profession, or other activity, but without deduction of taxes based on income.

"RESIDENT" - See Article II, Section 201.

"RESOLUTION" - The official School Board or municipal governing body's action, by Resolution or Ordinance, levying the Earned Income and Net Profits Tax.

"TAXING DISTRICT" or "DISTRICT" - The Township of Hopewell and the Hopewell Area School District, levying the Earned Income and Net Profits Tax and requiring resident employers to withhold the tax.

ARTICLE II IMPOSITION OF TAX

SECTION 201. PERSONS SUBJECT TO TAX:

All residents of the Township of Hopewell, and the Hopewell Area School District, and non-residents who are not required to pay a similar tax elsewhere are subject to this tax. A "resident" is an individual who is domiciled in the Taxing District as evidenced, among other things, by one or more of the following:

- a. By his customarily being physically present, sleeping and eating there;
- b. By his maintaining religious, civic and club affiliations there;
- c. By his holding himself out as residing there, i.e., giving address in registration for licenses, voting, payment of per capita, personal property or income taxes;
- d. By his spouse and minor children living there;
- e. By the center of his affairs appearing to be there.

Normally it is not difficult to determine the residence of domicile of an individual because most of the determining factors usually point to one conclusion. Obviously, if a person has the foregoing factors occurring in one district, he is a resident of that district.

Of more difficulty is the situation concerning individuals as to whom some of the factors occur in one district and others take place elsewhere. Each case must be determined solely on its own facts.

SECTION 202. WHAT IS TAXED:

The tax is imposed on earned income and net profits as both are defined in Article I of these Rules and Regulations. These items are subject to the tax whether a taxpayer receives them directly or through an agent.

SECTION 203. WHAT IS INCLUDED IN EARNED INCOME:

Examples of earned income (without intending, in any way to limit the provisions of the Resolutions/Ordinances to these examples) are:

- A. Salaries
- B. Wages
- C. Commissions
- D. Bonuses
- E. Drawing accounts. (If amounts received as a drawing account exceed the salary or commissions earned, the tax is payable on the amounts received. If the employee subsequently repays to the employer any amounts not in fact earned, the tax shall be adjusted accordingly.)
- F. Incentive Payments
- G. Tips
- H. Fees
- I. Benefits accruing from employment, including, but not limited to annual leave, vacation, holiday, sickness, and separation benefits, but excluding benefits mentioned in Section 205 (a) of these Regulations.
- J. Taxes assumed by the employer for the employee.
- K. Regular wages received during a period of sickness or disability.
- L. Deferred Annuity payments such as keough, IRA, etc.
- M. National Guard Pay (except active duty).
- N. Stipends paid to Graduate Assistants.
- O. All other forms of compensation for an employee's services. Neither the kind nor rate of payment, nor the manner of employment, exempts an employee from the tax.

SECTION 204. WHAT IS INCLUDED IN "NET PROFITS":

Examples of "net profits" (without intending in any way to limit the provisions of the Resolutions/Ordinances to these examples) are:

- A. The net profits of a business or profession or farm, operations conducted by an individual or by a husband and wife, as computed according to the laws, regulations and procedure for computing Federal Income Tax "net profits" or "net farm profits" as required to be reported on Federal Income Tax Form 1040 (Schedules C or F of 1965 edition).
- B. Receipts reportable for Federal Income Tax purposes, as derived from a fiduciary, partnership, small business corporation, or joint venture (Federal Income Tax Form 1065), except any portion thereof resulting from things not taxed by the Resolutions/Ordinances such as capital gains, real estate, rentals, or interest, as set forth under Section 205.
- C. Royalties received by authors, inventors, copyrights, etc.
- D. Income from the operation of hotels, motels, trailer camps, tourist homes, boarding houses and other similar businesses.
- E. Income from the business or renting personal property.
- F. All other net profits of an enterprise, venture, or other activity, whether such activities are conducted within or outside the Taxing District.

SECTION 205. EXCLUSIONS FROM TAX:

The following are not considered to be earned income and are not subject to the tax:

- A. Sickness, disability, or retirement benefits paid--except regular wages as provided in Section 203 K.
- B. Payments made under any public assistance or unemployment compensation legislation.
- C. Compensation or bonuses paid by a State or the United States for active military service in the Armed Forces except National Guard.
- D. Death benefit payments to an employee's beneficiary or estate, whether payable in a lump sum or otherwise.
- E. Proceeds of Life Insurance Policies.
- F. Cash or property received as a gift, by Will, or by statutes of descent and distribution.
- G. Interest and dividends.
- H. Rents derived from mere "passive" or "investment" ownership or subleasing of real estate without the furnishing by the lessor of services to the leased premises or to the lessee other than gas, electricity, water, sewerage, and heat. (Such rents are considered to be by the return solely from invested capital and not profits from operation of a business activity or enterprise.) Furnishing of services to common portions, and general preservation, of rented real estate shall not make rents described in the paragraph taxable.
- I. Value of meals and lodging furnished to domestics or other employees by the employer for the latter's convenience.
- J. Capital Gains.
- K. Social Security Benefits.
- L. Sub-chapter S Corporation Earnings.
- M. Payments received from annuities and deferred income plans.
- N. Damages for Personal Injuries.
- O. Scholarships and Fellowships.

SECTION 206. RESIDENT TAXATION:

The entire earned income and net profits received and/or earned by a resident of any Taxing District is subject to this tax. Neither the source of the earned income or net profits nor the place where it is received and/or earned exempts a resident from the tax.

SECTION 207. NON-RESIDENT TAXATION:

The entire earned income and net profits received and/or earned by a non-resident of Taxing District who is not required to pay a similar tax elsewhere is subject to taxation by the Municipality in which the person temporarily resides. Non-residents are not subject to taxation by the School District.

Credit for earned income or wage tax paid to another state or to a municipality in another state will be allowed up to a maximum of 1% of the gross earnings taxed by that state or municipality. Evidence of the amount of gross earnings and payment of tax is required before this credit is allowed.

SECTION 208. DEDUCTIONS AND LOSSES:

A. DEDUCTIONS:

Employee's Unreimbursed Business Expenses--Business Expenses for which an employee has not been reimbursed are allowed as a deduction from gross wages provided such expenses are necessary (required by the employer) in order for the taxpayer to keep his present job. For Example--a salesman on a commission basis may deduct from his gross earnings those unreimbursed expenses, incurred in producing his gross income, to the extent that they were allowable for State Income Tax purposes, as reported on state schedule UE1 and UE2.

B. LOSSES:

Taxpayers are not allowed to offset a gain in one class of income against a loss in another class of income. If a net loss is incurred, zero must be entered on the appropriate line of the annual Earned Income and Net Profits Tax Return. Losses may be applied only in the year in which the loss was actually incurred, and may not be carried over to subsequent years. One person's losses may not be deducted from his or her spouse's earnings.

Example:

1. A person who is employed and receives a wage or salary may not offset against such income the losses incurred in the operation of a business, profession, farm, partnership, small business corporation, enterprise, or other venture.

2. Wife works and received \$3,000.00 per year and \$30.00 tax was withheld. Husband is self-employed and suffered a \$5,000.00 loss. Husband's loss does not entitle wife to a refund of the \$30.00 tax withheld.

ARTICLE III COLLECTION AT THE SOURCE

SECTION 301. EMPLOYERS REQUIRED TO WITHHOLD:

Every employer having an office, factory, workshop, branch, warehouse, or other place of business located within the Taxing District, and who employs one or more persons (other than domestic servants in a private home) for a salary, wage, commission, or other compensation, shall deduct the tax from the resident employee's wages at the time of payment thereof.

SECTION 302. VOLUNTARY WITHHOLDING:

Any employer located outside the Taxing District may voluntarily withhold the tax from employees who are residents of the Taxing District but who are employed outside the District.

SECTION 303. REGISTRATION OF EMPLOYERS:

- A. Each employer withholding or required to withhold tax pursuant to Section 301 or Section 302 shall register with the appropriate Officer such employer's name and address and such other information as the Officer may require within fifteen (15) days after becoming a withholding employer.
- B. Any employers who have a place of business located within the Taxing District shall maintain complete records of all employees for a period of six years in such form as to enable the Officer to determine the employers' liability to withhold for each employee, the amount of taxable income for each employee, the actual amount withheld, the actual amount transmitted to the Officer and such other information available to such employers as will enable the Office to carry out its responsibilities.

SECTION 304. LIABILITY OF EMPLOYEE:

Failure of any employer to withhold tax shall not relieve the employee from payment of such tax.

ARTICLE IV PAYMENT OF TAX AND RETURNS

SECTION 401. ANNUAL RETURNS OF TAXPAYERS:

- A. On or before April 15 of each year, every person who was a resident of the Township of Hopewell and the Hopewell Area School District for all or any part of the preceeding calendar year shall file with the appropriate Officer an Annual Tax Return showing all earned income and net profits received and/or earned for the previous year. This is an individual tax and cannot be filed jointly.
- B. If a person has no earned income to report, the word none shall be entered on the Annual Tax Return and the return shall be signed, dated, and returned to the Officer with an explanation (Military Service, retired, disability income only, etc).
- C. If self-employment profit is incurred, the type of business, profession, or enterprise shall be indicated on the annual tax return and the amount of the profit shall be shown on the appropriate line of the return. If a self-employment loss is incurred, zero shall be entered on the appropriate line of the Annual Tax Return.
- D. When a return is made for a calender year, the return shall be filed within one hundred and five (105) days from the end of said calendar year.

- E. Such return shall also show the taxpayer's name, address, place or places of employment or business, the amount of tax due, the amount of any credit claimed for tax withheld by an employer (with a copy of the Withholding Statement showing amount of tax withheld) and such other information as may be indicated on the return form or as may be required by the Officer. Every person subject to the tax shall file such return regardless of the fact that his wages may have been subject to withholding of the tax by his employer and regardless of whether or not tax is due.
- F. All tax returns must be accompanied by proof of earnings. Proof of earnings may be one of the following: W2, Federal Income Tax Form 1040, 1040A, 1065, Partnership Schedule K or K1, Schedule C, Schedule F, 1099, etc.
- G. At the time of filing the annual return, the taxpayer shall pay any tax due. Total balances less than \$1.00 need not be paid.
- H. Tax Returns must be signed and dated by the taxpayer(s) in the space(s) provided.

SECTION 402. QUARTERLY PAYMENT BY TAXPAYERS:

Quarterly payment of taxes may be made by estimating gross earnings and remitting one (1) percent of the gross earnings to the appropriate Officer at the following times:

January, February, March--	by April 30
April, May, June--	by July 31
July, August, September--	by October 31
October, November, December	by January 31

SECTION 403. RETURNS OF EMPLOYERS AND PAYMENT OF WITHHELD TAX:

- A. Every employer required to withhold the tax shall file a return on the proper form setting forth the name, Social Security Number, address, municipality of residence and amount of tax withheld for each employee, and shall remit the total sum thereof to the appropriate Officer at the following times:

FOR QUARTER COMPRISING THE FOLLOWING
MONTHS IN WHICH WAGES ARE PAID:

EMPLOYERS QUARTERLY RETURN AND
PAYMENT DUE ON OR BEFORE:

JANUARY, FEBRUARY, MARCH
APRIL, MAY, JUNE
JULY, AUGUST, SEPTEMBER
OCTOBER, NOVEMBER, DECEMBER

APRIL 30
JULY 31
OCTOBER 31
JANUARY 31

- B. Every employer who discontinues business prior to the completion of the taxable year, shall, within thirty (30) days after discontinuance of business, file and furnish the returns required by this section covering periods between the last such returns and date of discontinuing business and transmit to the Officer all tax remaining due.

SECTION 404. CALENDAR YEARS:

- A. Normally taxpayers shall use the calendar year method for reporting and paying the tax.

SECTION 405. EXTENSIONS:

- A. A taxpayer who requires an extension of time in which to file his Annual Tax Return shall make written application to the appropriate Officer no later than one hundred and five (105) days from the end of the calendar or fiscal year for which the return will be filed. A taxpayer who is granted an extension of time for filing his Federal Tax Return shall not automatically be entitled to a similar extension of time for filing his local return.
- B. A taxpayer who receives an extension on Federal and State Taxes, shall present proof of such extension to the appropriate Officer, file and pay an estimated tax return and upon final filing of Federal and State Tax returns then file and pay (if additional tax is due) a final Tax Return with the appropriate Local Officer.

SECTION 406. CHANGE IN FEDERAL TAXABLE INCOME:

If the amount of a taxpayer's earned income or net profits reported on his annual Federal Income Tax Return is changed or corrected either by action of the Internal Revenue Service or by the individual's filing of an amended annual Federal return, the taxpayer shall report to the appropriate Officer such change or correction within thirty (30) days after the date when the final such change or correction was determined.

ARTICLE V

ADMINISTRATION AND ENFORCEMENT

SECTION 501. INCOME TAX OFFICER/COLLECTOR:

The Officer is charged with the administration and enforcement of the Resolutions/Ordinances and these Rules and Regulations, and is authorized to act on behalf of the Township of Hopewell and the Hopewell Area School District in such administrative and enforcement matters.

SECTION 502. REQUESTS FOR RULINGS:

Any taxpayer or employer desiring a specific ruling concerning the Resolutions/Ordinances or these Rules and Regulations shall submit all pertinent facts in writing to the appropriate Officer who shall issue a ruling.

SECTION 503. EXAMINATION OF BOOKS AND RECORDS OF TAXPAYERS AND EMPLOYERS:

- A. The Officer and agents designated in writing by him are authorized to examine the books, papers and records of any taxpayer or supposed taxpayer or of any employer or supposed employer in order to verify the accuracy of any return; or, if no return was filed, to ascertain the tax due, if any. Every taxpayer or supposed taxpayer and every employer or supposed employer is required to give the Officer or any agent so designated by him, the means, facilities and opportunity for such examination and investigations as are authorized.

- B. Information obtained by the Officer, his agent or any other official or agent of the Central Collection Office, as a result of any returns, investigations, hearings or verifications required or authorized, is confidential and may not be disclosed to any person, except for official use in connection with administration or enforcement of the Resolutions/Ordinances or as otherwise provided by Law.

SECTION 504. RECORDS TO BE KEPT BY TAXPAYERS:

Taxpayers and employers subject to the Resolutions/Ordinances are required to keep such records as will enable the filing of true and accurate returns, whether of taxes withheld at source or of taxes payable upon earned income or net profits, or both; and such records shall be preserved for a period of not less than six (6) years in order to enable the Central Collection Office to verify the correctness of the returns filed.

SECTION 505. REFUNDS:

A completed Annual Tax Return must be filed before a request for refund can be considered. Depending upon the nature of the refund, additional documentation to substantiate the request may be required. Refund requests will not be processed until the necessary documentation is provided. Amounts less than one dollar (\$1.00) will not be refunded.

SECTION 506. INTEREST AND PENALTIES

If for any reason the tax is not paid when due, interest at the rate of six percent (6%) per annum on the amount of said tax, and an additional penalty of one-half (1/2) of one percent (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 recovery of any such tax, the person liable therefore shall, in addition, be liable for the cost of collection and interest and penalties herein imposed.

SECTION 507. FINES AND PENALTIES FOR VIOLATIONS:

Any person who violates any provisions of the resolution and ordinances shall upon conviction, be sentenced to pay a fine of not more than \$500.00 for each offense plus costs, and in default of payment thereof, to be imprisoned for a time not exceeding thirty (30) days. Some of the violations which may result in such conviction are:

- A. Revelation for unauthorized purposes by any officer or employee of the Central Collection Office or any Taxing District of any confidential information acquired as a result of the operation of the Resolutions/Ordinances or these Rules and Regulations.
- B. Failure, neglect, or refusal on the part of any person, any partner of a partnership or any officer of a corporation or association to file any report or return, or to pay, deduct from wages, or transmit any tax, penalty or interest required of such person, partnership, corporation or unincorporated association.
- C. Failure, neglect or refusal to maintain or to reveal to the Officer or his authorized representative, or to permit the latter to examine books, records or papers relevant to tax imposed hereunder.

- D. Knowingly making any incomplete, false or fraudulent report or return or attempting to do any other thing to avoid payment of the tax in whole or in part.

SECTION 508. CONCURRENT REMEDIES:

Imposition of any fine or imprisonment shall not bar either the liability for tax, penalty or interest, or prosecution for embezzlement, fraudulent conversion, theft, or other offense under the Pennsylvania Crimes Code.

SECTION 509. FAILURE TO RECEIVE FORMS:

Failure of a taxpayer or employer to receive forms or returns required by the resolutions/ordinances shall not excuse any failure to file any reports or returns required or to pay any tax due.