

BROWNSVILLE TOWNSHIP SUPERVISORS

EARNED INCOME TAX ORDINANCE NO. 1-11

AN ORDINANCE IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED DURING THE PERIOD BEGINNING JANUARY 1, 2012 AND ENDING DECEMBER 31, 2012, BY RESIDENTS OF BROWNSVILLE TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA; AND ON SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED DURING SAID PERIOD BY NON-RESIDENTS OF THE BROWNSVILLE TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA, FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN BROWNSVILLE TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA; AND ON THE NET PROFITS EARNED DURING SAID PERIOD FROM BUSINESSES PROFESSIONS, OR OTHER ACTIVITIES CONDUCTED BY RESIDENTS OF BROWNSVILLE TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA; AND ON THE NET PROFITS EARNED DURING SAID PERIOD FROM BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED IN BROWNSVILLE TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA BY NON-RESIDENTS; REQUIRING THE FILING OF DECLARATIONS AND RETURNS AND THE GIVING OF INFORMATION BY EMPLOYERS AND THOSE SUBJECT TO THE TAX; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING THE TAX AT SOURCE; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE; AND IMPOSING PENALTIES FOR VIOLATIONS THEREOF.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Brownsville Township, Fayette County, Pennsylvania, under and by virtue of the Local Tax Enabling Act of the General Assembly of the Commonwealth of Pennsylvania, No. 511, duly enacted December 31, 1965, and it is hereby enacted and ordained by and with the authority of the same, as follows:

Section 1. This ordinance shall be known as the "Earned Income Tax Ordinance of Brownsville Township, Fayette County, Pennsylvania". The provisions hereof shall become effective on January 1, 2012.

Section 2. Definitions. The following words and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning.

"Association" – A partnership, limited partnership, or any other unincorporated group of two or more persons.

“Business” – An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, 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.

“Earned Income” – Salaries, wages, commissions, bonuses, incentive payments, fees and tips that may accrue or be received by an individual for services rendered, whether directly or through an agent, and whether in cash or in property; not including periodic payments for sick or disability benefits, other than regular wages received during a period of sickness, disability or retirement, or payments arising under the Workmen’s Compensation Acts, Occupational Disease Acts, or similar legislation, and 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 public assistance or unemployment compensation payments made by any governmental agency, or payments to reimburse expenses or payments made by employees or labor unions for wage and supplemental salary programs, including, but not limited to programs covering hospitalization, sickness, disability or death, supplemental unemployment compensation benefits, strike benefits, social security and retirement, or any wages or compensation paid by the United States to any person for active service in the Army, Navy, or Air Force of the United States, or any bonus or additional compensation paid by the United States or the Commonwealth of Pennsylvania or any other state for such service.

“Earned Income Tax Officer” – The person designated by the Supervisors of Brownsville Township, Fayette County, Pennsylvania, to administer the provisions of the Earned Income Tax Ordinance. The person so designated shall serve for such period as designated by the Township Supervisor of said township, and the said Board of Township Supervisors may, from time to time, designate any other person to serve as such officer.

“Earnings” – Salaries, wages, commissions and other compensation as defined in this ordinance.

“Employer” – An individual, partnership, association, corporation, governmental body or agency, or any other entity employing one or more persons on a salary, wage, commission or other compensation basis.

“Non-Residents” – An individual, partnership, association, or other entity domiciled outside Brownsville Township, Fayette County, Pennsylvania.

“Person” – A natural person, partnership, corporation fiduciary or association. Whenever used in any section prescribing and imposing a penalty, the term “person” as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

“Resident” – An individual, partnership, association or other entity domiciled in Brownsville Township, Fayette County, Pennsylvania.

“Taxable” – Subject to the tax imposed by this ordinance.

“Taxpayer” – A person, whether an individual, partnership, association, or any other entity required hereunder to file a return of earnings or net profits, or to pay thereon.

Section 3. Imposition of Tax. A tax for general revenue purposes of one (1%) percent is hereby imposed on the following:

(a) Salaries, wages, commissions and other compensation earned on and after January 1, 2012, by individual residents of Brownsville Township, Fayette County, Pennsylvania.

(b) Salaries, wages, commissions, and other compensation earned on or after January 1, 2012, by individual non-residents of Brownsville Township, Fayette County, Pennsylvania, earned in the said Brownsville Township, Fayette County, Pennsylvania.

(c) Net profits earned on and after January 1, 2012, by residents of Brownsville Township, Fayette County, Pennsylvania.

(d) Net profits earned on and after January 1, 2012, in Brownsville Township, Fayette County, Pennsylvania, by non-residents of Brownsville Township, Fayette County, Pennsylvania.

The tax levied by this ordinance shall be applicable to salaries, wages, commissions and other compensation and to net profits earned in the period beginning January 1, 2012, and ending December 31, 2012.

Section 4. Declaration and Payment of Tax.

(a) Net profits.

(1) Every person hereafter called “Taxpayer” who reasonably expects that he will earn any taxable net profits during the period between January 1, 2012, and December 31, 2012, shall, on or before January 31, 2013, make and file with the Earned Income Tax Officer, on a form prescribed by the Earned Income Tax Officer, a declaration of his estimated net profits for the period beginning January 1, 2012, and ending December 31, 2012, setting forth the estimated or actual amount of net profits reasonably expected or received by him for the said period and subject to the tax, the amount of tax or estimated tax imposed by this ordinance on such profits or estimated profits, and such other relevant information as the Earned Income Tax Officer may require. The taxpayer making the declaration shall, at the time of filing thereof, pay to the Earned Income Tax Officer such tax or estimated tax on or before January 31, 2013.

(2) A person who, on January 31, 2013, did not reasonably expect that he would or did not earn any taxable net profits during the period between January 1, 2012, and December

31, 2012, shall nevertheless file with the Earned Income Tax Officer a declaration and return on or before January 31, 2013.

(3) The Earned Income Tax Officer is hereby authorized to provide by regulation for the making and filing of adjusted declaration of estimated net profits, and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required, shall thereafter either reasonably expect additional net profits not previously declared or find that he has over-estimated his net profits.

(4) On or before April 15, 2013, every taxpayer who has earned taxable net profits shall make and file with the Earned Income Tax Officer, on a form prescribed by him, a final return showing all of such net profits for the period beginning January 1, 2012, and ending December 31, 2012, the total amount of tax due, the amount of the estimated tax paid under the provisions of this section, and the balance due. When the return is made for a fiscal year different from the calendar year, the return shall be made within one hundred five (105) days from the end of the fiscal year. The percentage of the total net profits of any calendar or fiscal year of a taxpayer beginning with January 1, 2012, and ending December 31, 2012, to which the tax imposed by this ordinance shall be applicable, shall be equal to the same percentage of such total net profits as the number of days in any such year within such period bears to the total number of days in any such year.

At the time of filing of the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in case of overpayment.

(5) Every taxpayer who discontinues business prior to December 31, 2012, shall, within thirty (30) days after the discontinuance of business, file his final return as hereinabove required and pay the tax due, or demand refund or credit in the case of overpayment.

(b) Salaries, Wages, Commissions and Other Compensation.

(1) Every taxpayer who is employed on a salary wage, commission or other compensation basis, and who reasonably expects to earn taxable earnings not subject to the provisions of Section 5 of this ordinance relating to the collection at source, shall, on or before January 31, 2013, make and file with the Earned Income Tax Officer, a declaration of his estimated total amount of taxable salaries, wages, commissions, and other compensation for the period beginning January 1, 2012, and ending December 31, 2012, the estimated amount of the tax thereon that will be deducted therefrom pursuant to Section 5 of this ordinance, the estimated amount of the tax imposed by this ordinance that will not be deducted therefrom pursuant to Section 5, and such other relevant information as the Earned Income Tax Officer may require.

(2) A person who, on January 31, 2013, did not reasonably expect that he would earn any salaries, wages, commissions and/or other compensation not subject to the provisions of Section 5 of this ordinance relating to the collection at source, during the period beginning January 1, 2012, and ending December 31, 2012, and, who subsequent thereto, reasonably expects that he will earn salaries, wages, commissions and/or other compensation not subject to the provisions of Section 5 of this ordinance, on or before December 31, 2012, shall make and

file immediately thereafter a declaration similar to that required under the immediately foregoing paragraph (1). The taxpayer making the declaration shall at the time thereof pay to the Earned Income Tax Officer the estimated tax shown as due thereon; provided, however, that the taxpayer shall have the right to pay the estimated tax prior to said date, in installments or otherwise.

(3) The Earned Income Tax Officer is hereby authorized to provide by regulation for the making and filing of adjusted salaries, wages, commissions and other compensation and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required shall thereafter either reasonably expect additional salaries, wages, commissions or other compensation not previously declared or find that he has over-estimated his salaries, wages, commissions and other compensation.

(4) On or before April 15, 2013, every taxpayer who has received taxable salaries, wages, commissions and other compensation shall make and file with the Earned Income Tax Officer on a form prescribed by him, a final return showing all such salaries, wages, commissions and other compensation earned during the period beginning January 1, 2012, and ending December 31, 2012, the total amount of the tax due hereon, the amount of the estimated tax thereon paid under the provisions of this section, if any, and the amount, if any, of the tax thereon that has been withheld pursuant to the provisions of Section 5 of this ordinance, 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.

Section 5. Collection at Source.

(a) Every person with Brownsville Township, Fayette County, Pennsylvania, who employs one or more persons on a salary, wage, commission or other compensation basis, other than domestic servants, shall deduct, at the time of the payment thereof, the tax imposed by this ordinance on the salaries, wages, commissions, and other compensation due to his employee or employees, and shall, on or before January 31, 2013, make and file with the Earned Income Tax Officer, a return setting forth the taxes so deducted for the preceding quarterly period ending December 31, 2012, and pay the tax then due.

(b) On or before February 28, 2013, every employer shall file with the Earned Income Tax Officer, on forms prescribed by him:

(1) An annual return showing the total amount of salaries, wages, commissions and other compensation earned by his employee or employees, on which a tax is imposed by this ordinance, the total amount of the tax deducted and the total amount of tax paid to Brownsville Township, Fayette County, Pennsylvania, or to its Earned Income Tax Officer, in respect to salaries, wages, commissions, and other compensation earned by his employee or employees during the period from January 1, 2012, and ending December 31, 2012; and

(2) A return in respect of each person who was an employee during all or any part of the period beginning January 1, 2012, and ending December 31, 2012, and who earned during such period any salaries, wages, commissions or other compensation, subject to the tax imposed by this ordinance, setting forth the employee's name, address and social security number, the amount of such salaries, wages, commissions or other compensation earned by the employee during said period, the amount of tax deducted therefrom and such other relevant information as the Earned Income Tax Officer may require. Every employer shall furnish a copy of the individual return to the employee in respect of whom it was filed.

(c) Every employer who discontinues business prior to December 31, 2012, shall, within thirty (30) days after the discontinuance of business, file the returns hereinabove required and pay the tax due.

(d) 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 requirements of this ordinance relating to the filing of declarations and returns.

(e) If an employer makes a deduction of tax as required by Section 5 hereof, the amount deducted shall constitute in the hands of such employer, a trust fund for the account of Brownsville Township, Fayette County, Pennsylvania, as beneficial owner thereof, and the employee from whose salaries, wages, commissions or other compensation such tax was deducted, shall be deemed to have paid such tax.

Section 6. Powers and Duties of the Earned Income Tax Officer.

(a) It shall be the duty of the Earned Income Tax Officer to collect and receive the taxes, fines and penalties imposed by this ordinance. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax, and if paid by such person in respect of another person, the name of such other person and the date of such receipt.

(b) The Earned Income Tax Officer is hereby charged with the administration and enforcement of the provisions of this ordinance, and he is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations subject to the approval of the Board of Supervisors of Brownsville Township, Fayette County, Pennsylvania, relating to any matter pertaining to the administration and enforcement of this ordinance, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this ordinance.

(c) The Earned Income Tax Officer and agents designated in writing by him are hereby authorized to examine the books, papers and records of any person in order to verify the accuracy of any declaration or return, or, if no declaration or return was filed, to ascertain the tax due. Every person is hereby directed and required to give to the Earned Income Tax Officer or to any agent so designated by him, the opportunity for such examination and investigations as are hereby authorized.

(d) Any information gained by the Earned Income Tax Officer, or his agents, or by any other official, agent, employee or servant of Brownsville Township, Fayette County, Pennsylvania, as a result of any declarations, returns, investigations, hearings, or verifications required or authorized by this ordinance, shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this ordinance or as otherwise provided by law, including audits hereof by duly appointed persons by the Board of Township Supervisors.

(e) Any person aggrieved by any action of the Earned Income Tax Officer shall have the right of appeal as provided by law.

Section 7. Suit for Collections of Tax.

(a) The Earned Income Tax Officer may sue, in the name of Brownsville Township, Fayette County, Pennsylvania, for the recovery of taxes due and unpaid under this ordinance.

(b) Any suit brought to recover the tax imposed by this ordinance shall be begun within three (3) years after such tax is due and/or within three (3) years after a 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 a person although a declaration or return was required to be filed by him under the provisions of this ordinance, there shall be no limitations as to the time suit may be instituted.

(2) In the case of a false or fraudulent declaration or return with the intent to evade the tax, there shall be no limitation as to the time suit may be instituted.

(3) In the case of substantial understatement of tax liability of 25% or more and no fraud exists, suit may be begun within six (6) years.

(4) Where any person has deducted taxes under the provisions of this ordinance and has failed to pay the amounts so deducted to the Earned Income Tax Officer, or where any person has willfully failed or omitted to make the deductions required herein and as is provided by law, there shall be no limitation as to the time suit may be instituted.

(5) The Earned Income Tax Officer may sue for the recovery of all erroneous refund, provided such suit is begun within two (2) years after making said refund, except that the suit may be brought within five (5) years if it appears that any part of the refund was induced by fraud or misrepresentation of a material fact.

Section 8. Interest and Penalties.

If, for any reason, the tax is not paid when due, interest at the rate of six (6%) percent per annum on the amount of said tax, and an additional penalty of one-half of one percent (.5%) 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.

Section 9. Payment and Refunds.

The Earned Income Tax Officer is hereby authorized to accept payments of the amount of tax claimed by Brownsville Township, Fayette County, Pennsylvania, in any case where any person disputes the validity or amount of the township's claim to the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Earned Income Tax Officer, the amount of the overpayment shall be refunded to the person who paid.

Section 10. Applicability.

The tax imposed by this ordinance shall not apply:

(a) To any person as to whom it is beyond the legal power of Brownsville Township, Fayette County, Pennsylvania, to impose the tax herein provided for under the Constitution of the United States and the Constitution and Laws of the Commonwealth of Pennsylvania.

(b) To the net profits of any institution or organization operating for public, religious, educational or charitable purposes, to an institution or organization not organized for private profit, or to a trust or a foundation established for any of said purposes.

This section shall not be construed to exempt any person who is an employer from the duty of collecting the tax at source from his employees and paying the amount collected to Brownsville Township, Fayette County, Pennsylvania, or to its Earned Income Tax Officer, under the provisions of Section 5 of this ordinance.

Section 11. Fines and Penalties for Violation of Ordinance.

(a) Any person who fails, neglects or refuses to make any declaration or return required by this ordinance; any person who fails, neglects or refuses to pay the tax deducted from his employees; any person who refuses to permit the Earned Income Tax Officer or any agent properly designated by him to examine his books, records, and papers; and any person who makes any incomplete, false or fraudulent return to avoid the payment of the whole or any part of the tax imposed by this ordinance shall, upon conviction thereof before any Magisterial District Judge, be sentenced to pay a fine of not more than Five Hundred (\$500.00) Dollars for each offense and costs, and in default of payment of said fine and costs, to be imprisoned in the Fayette County Jail for a period not exceeding thirty (30) days.

(b) Any person who, except as permitted by the provisions of subsection (d) of Section 6 of this ordinance, divulges any information which is confidential under the provisions of said subsection shall, upon conviction thereof before any Magisterial District Judge be sentenced to

pay a fine of not more than Five Hundred (\$500.00) Dollars for each offense and costs, and in default of said fine and costs, be imprisoned in Fayette County Jail for a period not exceeding thirty (30) days.

(c) The penalties imposed under this section shall be in addition to any other penalties imposed by any other section of this ordinance.

(d) The failure of any person to receive or procure the forms required for making any declaration or return required by this ordinance shall not excuse him from making such declaration or returns.

Section 12. The tax imposed herein shall continue in force on a calendar year or taxpayer fiscal year basis, without annual re-enactment, unless the rate of the tax is subsequently changed.

If the tax herein imposed shall be re-enacted in the next or any succeeding years, the tax shall be imposed for said year and the returns and payment of taxes, under Section 4 hereof, shall be made on a quarterly basis, as follows:

(a) For the first quarter or period, the return shall be made and the estimated tax paid on or before April 30;

(b) For the second quarter or period, the return shall be made and the estimated tax paid on or before July 31;

(c) For the third quarter or period, the return shall be made and the estimated tax paid on or before October 31;

(d) For the fourth quarter or period, the return shall be made and the estimated tax paid on or before January 31 of the next succeeding year.

The returns required to be made by employers under Section 5 hereof shall be made on or before April 30, July 31, and October 31 of said year, and on or before January 31 of the next succeeding year, for all taxes deducted at the source by said employers during the preceding quarter.

Section 13. Severability.

The provisions of this ordinance are severable. If any sentence, clause or section of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this ordinance. It is hereby declared to be the intent of the Board of Supervisors of Brownsville Township, Fayette County, Pennsylvania, that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentences, clauses, or section had not been included herein.

Section 14. Repealer Clause.

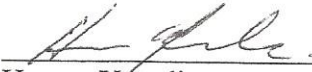
All ordinances, resolutions, or parts of ordinances or resolutions, conflicting with this ordinance are hereby repealed, insofar as the same affects this ordinance.

SECTION 14. EFFECTIVE DATE


This Ordinance shall become effective on the 1st day of January, 2012.

ORDAINED and ENACTED by the Supervisors of Brownsville Township, Fayette County, Pennsylvania, on this 17th day of December, 2011.

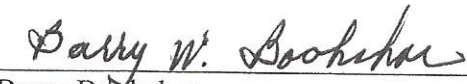
BROWNSVILLE TOWNSHIP SUPERVISORS



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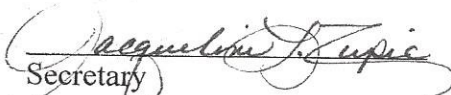


Timothy Scott



Barry Bookshar

ATTEST:



Secretary