**CHAPTER 24**

**TAXATION, SPECIAL**

**Part 1**

**Earned Income Tax**

 **§101. Short Title and Effective Date.** This Ordinance shall be known as the “Earned Income Tax Ordinance.” The provision hereof shall become effective on the first day of July, A.D., 1965.

 **§102. Definitions.** The following words and phrases when used in this Part, including the various portions of this Section thereof, shall have the meaning ascribed to them in this Section, except where the context clearly indicates or requires a different meaning.

ASSOCIATION – A partnership, limited partnership, joint venture, 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, fiduciary, association, or any other entity, alone or in association with some other person or persons.

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.

EARNINGS – Salaries, wages, commissions and other compensation as defined in this Part.

EMPLOYER – An individual, fiduciary, 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.

NET PROFIT – The net income from the operation of a business, profession or other activity, after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used in such business, profession or other activity, but without deduction of taxes, federal, state or local, based on income.

PERSON – An individual, fiduciary, association, corporation or other entity. 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, fiduciary, association, or other entity domiciled in the Township of White Deer, Union County, Pennsylvania.

SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATION – Salaries, wages, commissions, bonuses, incentive payments, fees and tips that may be paid to or received by an individual in accordance with an established accounting procedure, whether directly or through an agent and whether in cash or in property, not including periodic payments for sick or disability benefits and those 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.

TOWNSHIP – The Township of White Deer, Union County, Pennsylvania, and/or the Board of Supervisors thereof.

TAXABLE PERIOD – The period beginning the effective date of this Ordinance and ending December 31, 1965; thereafter, it shall be the calendar year beginning January 1, and ending December 31, inclusive.

TAXPAYER – A person required hereunder to file a return of earnings or net profits, or to pay a tax thereon. The singular shall include the plural and the masculine shall include the feminine and the neuter.

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

(1) Salaries, wages, commissions and other compensation earned by residents of the Township during the taxable period.

(2) Salaries, wages, commissions and other compensation earned by nonresidents of the Township during the taxable period.

(3) Net profits earned by the by residents of the Township during the taxable period.

(4) Net profits earned by nonresidents of the Township during the taxable period.

 **§104. Declaration and Payment of Tax.**

 (1) Every taxpayer who during the taxable period can reasonably be expected to earn net profits or earnings not subject to the provisions of §205 relating to collection at source, shall make and file with the Income Tax Administrator, on a form prescribed by the Income Tax Administrator, a declaration setting forth the amount of net profits anticipated by him for such taxable period and subject to tax, the amount of estimated tax imposed thereon by this Part, and such other relevant information as the Income Tax Administrator may require.

 (2) The declaration of estimated tax shall be filed and the tax shall be paid at the following times:

 (a) If said net profits or earnings can reasonably be expected on or before the 15th day of October of the taxable period, the taxpayer shall file a declaration on or before said date and shall pay the estimated tax shown thereon in equal quarterly installments on or before the said 15th day of October and on or before the 15th day of the following January, April and July.

 (b) If said net profits or earnings cannot reasonably be expected on or before October 15 of the taxable period, but can be reasonably expected subsequent to said date, the taxpayer shall file his declaration on or before the first of said remaining quarterly installment dates on which the taxpayer can first reasonably be expected to earn such net profits or earnings and shall pay the estimated tax shown thereon in equal installments on or before said remaining quarterly installment dates.

 (c) If the taxpayer elects to file a declaration on a calendar year basis setting forth his estimated net profits or earnings for the current calendar year, then, in lieu of filing his declaration and making payments thereon at the times set forth in Paragraphs (a) or (b) immediately hereinabove, he may: (1) on or before the 15th day of October and January of the taxable period, pay the quarterly installments of the estimated tax according to the declaration filed, and (2) on or before the 15th day of April of the taxable period, file a declaration of the estimated tax for the portion of the taxable period included in the new calendar year, and pay said tax in equal installments on or before said 15th day of April and the 15th day of July.

 (d) If the taxpayer elects to file a declaration on a fiscal year basis, different from the taxable period, setting forth his estimated net profits or earnings for a period included in the taxable period, then in lieu of filing his declaration and making payments thereon at the time set forth in Paragraphs (a) or (b) immediately hereinabove, he may: (1) pay the quarterly installments of the estimated tax according to the declaration filed for the portion of the taxable period included in said fiscal year, and (2) on or before the 105th day after the close of the fiscal year, file a declaration of the estimated tax for the portion of the taxable period included in the said succeeding fiscal year and pay said tax in equal quarterly installments, beginning with the due date of the filing and ending with the first quarterly installment due after the close of the taxable period.

 (3) Where the taxpayer who has filed a declaration required hereinabove, shall thereafter reasonably be expected to earn during the taxable period, additional net profits or earnings not subject to collection at source, or finds, that he has overestimated his net profits or earnings, he may file an amended declaration with the Income Tax Administrator setting forth such relevant information as the Income Tax Administrator may require.

 (4) Every taxpayer who is required to file a declaration of estimated tax under the provisions of this Section shall make and file with the Income Tax Administrator, on a form prescribed by the Income Tax Administrator, a final return showing all net profits and earnings during the taxable period, the total amount of tax due thereon, the amount of the estimated tax paid under the provisions of this Section, the amount of the tax that has been withheld pursuant to the provisions of §205 and the balance of the tax due.

 (5) The final return shall be filed at the following times:

 (a) If the taxpayer’s declaration is filed on a calendar year basis, he shall file his final return on or before the 15th day of April after the close of such calendar year.

 (b) If the taxpayer’s declaration is filed on a fiscal year basis the same as the taxable period, he shall file his final return on or before October 15th after the close of the taxable period.

 (c) If the taxpayer’s declaration is not filed on a calendar year basis or on a fiscal year basis the same as the taxable period, he shall file his final return on or before the 105th day after the close of the fiscal year.

 (6) The percentage of the total net profits of any calendar or fiscal year of a taxpayer beginning or ending within the taxable year to which the tax imposed by this Part 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.

 (7) 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.

 (8) In the event of the death of taxpayer during the taxable period, his personal representative, or in the absence of a personal representative, his heirs as designated by the then effective Pennsylvania Intestate Act, as amended, or as hereafter amended or supplemented, shall file his final return within sixty (60) days after the taxpayer’s death and pay the tax due or demand refund in the case of overpayment.

 (9) In the event the taxpayer’s taxable net earned income consists solely of salary, wage, commission or other compensation, the tax on which has been withheld by his employer and returned to the Income Tax Administrator, such taxpayer shall be relieved of the necessity of filing a return.

 (10) The final return shall include net profits and earnings taxable under any other ordinance of the said Township for the same calendar or fiscal year so that but one inclusive return shall be filed by every taxpayer for any one calendar or fiscal year.

 **§105. Collection at Source.**

(1) Every employer within the Township who employs one or more residents on a salary, wage, commission or other compensation basis, shall deduct at the time of the payment thereof, the tax imposed by this Part on the earnings due to his employee or employees and, within thirty (30) days after the 30th day of September of the taxable period and within thirty (30) days after each quarter of a year thereafter, shall make and file a return with the Income Tax Administrator on a form prescribed by the Income Tax Administrator, setting forth the taxes so deducted and such other relevant information as the Income Tax Administrator may require, and shall pay to the Township the amount of taxes so deducted.

(2) On or before the 15th day of February of the taxable period, every such employer shall make and file with the Income Tax Administrator on a form prescribed by the Income Tax Administrator:

 (a) A return showing the total amount of the earnings of his employee or employees during the portion of the preceding calendar year ending December 31 and embraced within the taxable period, the total amount of tax deducted and the total amount of tax paid to the Township.

 (b) A return ore each employee showing the total amount of the Employee’s earnings during the portion of the preceding calendar year ending December 31 and embraced within the taxable period, the amount of tax deducted therefrom, the employee’s social security number, name Administrator may require. Such employer on or before February 15 of in the return.

 (c) The said returns shall include the earning taxable under any other ordinance of the Township for the same calendar year so that one return shall be filed by any employer for any one calendar year.

(3) Every employer who discontinues business prior to the close of the taxable year shall, within thirty (30) days after the discontinuance of business, file the returns herein above required and pay the tax due. When discontinuance of business is due to the death of the employer, his personal representatives, or in the absence of a personal representative, his heirs, as designated by the then effective Pennsylvania Intestate Act as amended, or as hereafter amended or supplemented, shall within sixty (60) days after the death of the employer file his return and pay the tax due or demand refund in the case of overpayment.

(4) 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 Part relating to the filing of declarations and returns.

(5) If an employer makes a deduction of tax as required by this Section, the amount deduction shall not relieve any employee from the payment of the tax or from complying with the requirements of this Part relating to the filing of declarations and returns.

(6) The withholding of earnings and the payment and return thereof by the employer under the provisions of this Section shall not be required in respect to the earnings of domestic servants, farm labor and casual labor not in the course of the employee’s business. This Paragraph shall not be construed to exempt such employees from the requirement of filing a declaration and a return of such earnings and the payment of tax thereon under the provisions of §204.

 **§106. Powers and Duties of the Income Tax Administrator.**

(1) It shall be the duty of the Income Tax Administrator to collect and receive the taxes, fines and penalties imposed by this Part. 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.

(2) The Income Tax Administrator is hereby charged with the administration and enforcement of the provisions of this Part, and is hereby empowered, subject to approval by the Township, to prescribe, adopt, promulgate and enforce the rules and regulations relating to any matter pertaining to the administration and enforcement of this Part including provisions for the reexamination and correction of declarations and returns and of payments alleged to be found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this Part.

(3) The Income Tax Administrator, 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 Income Tax Administrator or to any agent so designated by him the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

(4) Any information gained by the Income Tax Administrator, his agents, or by any other official, agent or employee of the Township as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Part shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this Part or as otherwise provided by law.

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

 **§107. Suit for Collection of Tax.**

(1) The Income Tax Administrator may sue in the name of the Township for the recovery of taxes due and unpaid under this Part.

(2) Any suit brought to recover the tax imposed by this Part shall be begun within six (6) years after such tax is due or within six (6) 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:

 (a) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under the provisions of this Part.

 (b) Where a false or fraudulent declaration or return was filed with the intent to evade tax.

 (c) Where any person had deducted taxes under the provision of this Part and has failed to pay the amounts so deducted to the Township.

 **§108. 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 (0.5%) per cent 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.

 **§109. Payment and Refunds.** The Income Tax Administrator is hereby authorized to accept payment of the amount of tax claimed by the Township in any case where any person disputes the validity or amount of the Township’s claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Income Tax Officer, the amount of the overpayment shall be refunded to the person who paid.

 **§110. Applicability.**

(1) Any person who fails, neglects or refuses to make any declaration or return required by this Part; any employer who fails, neglects or refuses to pay the tax deducted from his employees; any person who refuses to permit the Income Tax Administrator 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 Part, shall, upon conviction thereof before any alderman or justice of the peace, be sentenced to pay a fine of not more than three hundred ($300.00) Dollars for each offense and costs, and, in default of payment of said fine and costs, to be imprisoned in the Union County Jail for a period not exceeding ninety (90) days.

(2) Any person who, except as permitted by the provisions of §206(4) of this Part, divulges any information which is confidential under the provisions of said Subsection shall, upon conviction thereof before any alderman or justice of the peace, be sentenced to pay a fine of not more than three hundred ($300.00) Dollars for each offense and costs, and, in default of payment of said fine and costs, to be imprisoned in the Union County Jail for a period not exceeding ninety (90) days.

(3) The penalties imposed under this Section shall be in addition to any other penalty imposed by any other section of this Part.

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

 **§111. Fines and Penalties for Violations.**

 (1) Any person who fails, neglects or refuses to make any declaration or return required by this Part; any employer who fails, neglects or refuses to pay the tax deducted from his employees; any person who refuses to permit the Income Tax Administrator or any agent property 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 Part, shall, upon conviction thereof before any alderman or justice of the peace, be sentenced to pay a fine and costs, to be imprisoned in the Union County Jail for a period not exceeding ninety (90) days.

 (2) Any person, partnership, corporation, firm, entity or joint venture who or which has violated or shall violate or permitted or permits the violation of the provisions of this Part shall upon being found liable therefor in a civil enforcement proceeding pay a judgment of not more than SIX HUNDRED AND 00/100 DOLLARS ($600.00), plus all court costs and reasonable attorney fees incurred by the Township as a result thereof.

 Each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Part shall be paid over to the Township. Nothing in this section shall be construed or interpreted to grant to any person, firm, partnership, entity, corporation or joint venture other than the Board of Supervisors or its duly designated agent the authority to commence or prosecute any action pursuant to this section.

 (Ordinance No. 96-4, adopted June 25, 1996)

 (3) The penalties imposed under this Part shall be in addition to any other penalty imposed by any other section of this Part.

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

 **§112. Severability.** The provisions of this Part are severable. If any sentence, clause or section of this Part 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 Part. It is hereby declared to be the intent of the Board of Supervisors of White Deer Township that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause or section not been included herein.

 (Ordinance No. , adopted January 31, 1969)