

EARNED INCOME TAX ORDINANCE

ORDINANCE NO. 83-3

An Ordinance of the Borough of Hop Bottom, Susquehanna County, Pennsylvania, enacted under authority of the Local Tax Enabling Act imposing a one-half of one percent (1/2%) tax for general Borough purposes on salaries, wages, commissions and other compensation earned after December 31, 1983, for activities or services wherever performed or rendered by residents of the Borough and for activities or services performed or rendered within the Borough by non-residents of the Borough, and upon the net profits from the operations of a business, profession or other activity wherever carried on by residents of the Borough and from the operation of a business, profession or other activity carried on within the Borough by non-residents of the Borough; requiring the filing of declarations and returns and the supplying of information by employers and those subject to said tax; imposing on employers the duty of collecting the tax at source; providing for the administration and enforcement of said ordinance; providing for the collection of the tax; and imposing penalties for violations thereof.

Be it ordained and enacted by the Council of the Borough of Hop Bottom, Susquehanna County, Pennsylvania, as follows:

ARTICLE 1

General Provisions

1.01 Definitions and interpretations.

- A. Words and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section and the Municipal and Quasi-Municipal Corporations Code of Pennsylvania, (Title 53 of the Pennsylvania Consolidated Statutes), as now in force, or as hereafter amended, enacted or reenacted, except where the context clearly indicates a different meaning.
1. "Association." A partnership, limited partnership, or any other unincorporated group of two or more persons.
  2. "Business." An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association, or any other entity.

3. "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.
4. "Current year." The calendar year for which the tax is levied.
5. "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 voluntarily 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 associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.
6. "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 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.
7. "Income tax officer or officer." Person, public employee or private agency designated by governing body to collect and administer the tax on earned income and net profits.

8. "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, wage, commission or other compensation.
  9. "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.
  10. "Nonresident." A person, partnership, association or other entity domiciled outside the taxing district.
  11. "Person or individual." A natural person.
  12. "Preceding year." The calendar year before the current year.
  13. "Resident." A person, partnership, association or other entity domiciled in the taxing district.
  14. "Succeeding year." The calendar year following the current year.
  15. "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.
- B. In this ordinance, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

## ARTICLE 2

### Imposition of Tax

- 2.01 The tax levied under this Ordinance shall be applicable to earned income received and to net profits earned in the period beginning January 1, 1984, and ending December 31, 1984, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without reenactment, unless the rate of tax is subsequently changed.
- 2.02 Earned income and net profits.

A tax for the general revenue purposes of the Borough shall be imposed at a rate of one-half of one percent (1/2%) for the year 1984 on the following:

- A. Salaries, wages, commissions, compensation and earned income, earned by residents of the Borough;
- B. Salaries, wages, commissions, compensation and earned income, earned by nonresidents of the said Borough for work done or services performed or rendered in said Borough;
- C. The net profits of businesses, professions or other activities conducted by residents of the said Borough;
- D. The net profits of businesses, professions or other activities conducted in the said Borough by nonresidents.

The tax levied under A and B of this Section shall relate to and be imposed upon salaries, wages, commissions, compensation and earned income paid by an employer or on his behalf to any person who is employed by or renders services to him. The tax levied under C and D of this Section shall relate to and be imposed upon the net profits of any businesses, profession or enterprise carried on by any person as owner or proprietor, either individually or in association with some other person or persons.

Where the fiscal year of the business, profession or other activity differs from the calendar year, the tax hereby imposed shall be applicable to that part of the net profits of said businesses, profession or other activity as was earned during the calendar year 1984.

### ARTICLE 3

#### Declaration and Payment of Tax

Each taxpayer whose earnings and/or net profits are subject to the tax imposed by this Ordinance and are not subject to the provisions of Article 4 of this Ordinance relating to collection at source, shall, on or before April 15, 1984, make and file with the Officer, on a form or forms furnished by or obtainable from the Officer, a declaration setting forth all earnings and/or net profits subject to the tax hereby imposed which he estimates will be received by him during the calendar year of 1984, together with such other pertinent information as may be required by this Ordinance or any rule or regulation promulgated pursuant thereto. Such declaration shall also show the amount of the tax imposed by this Ordinance on such estimated earnings and/or net profits, the estimated amount of tax which will be collected at source in accordance with Article 4 of this Ordinance and the balance due. The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Officer the amount of tax shown to be due thereon; provided, however, that the taxpayer shall have the right to pay the tax as shown on the declaration, or the balance of the tax, in four equal installments, the first installment thereof at the time of the filing of the declaration on or before April 15, 1984, and the other install-

ments thereof on or before July 15, 1984, October 15, 1984 and January 15, 1985, respectively.

Any taxpayer who first anticipates any earnings and/or net profits not subject to Article 4 of the Ordinance relating to collection at source, after April 15, 1984, shall make and file the declaration hereinabove required on or before either July 15, 1984, October 15, 1984, or January 15, 1985, dependent upon which of said dates next follows the date on which said taxpayer first anticipates such earnings and/or net profits. The taxpayer making the declaration shall, at the time of filing thereof, pay to Officer the amount of tax shown to be due thereon; provided, however, that the taxpayer shall have the right to pay the tax as shown on the declaration, or the balance of said tax, in equal installments on or before such of the quarterly installment dates above mentioned which remain after the filing of the above declaration.

On or before April 15, 1985, each taxpayer shall file a final return of earnings and/or net profit earned by the taxpayer during the year 1984, on a form furnished by or obtainable from the Officer. Such return shall show the amount of the tax imposed by this Ordinance on said earnings and/or net profits, as well as the amount of said tax theretofore paid by or on behalf of the taxpayer, together with such other pertinent information as may be required under the provisions of this Ordinance or any rule or regulation promulgated pursuant thereto. Provided, however, that any taxpayer may, in lieu of paying the final installment of his estimated tax, elect to make and file with the Officer on or before January 15, 1985, the final return as hereinabove required.

At the time of filing such final return the taxpayer shall pay to the Officer any balance of tax shown on said return to be due and payable, or shall file with the Collector a claim for a refund or credit in the amount of any overpayment of tax.

Any excess payment shown to be due the taxpayer shall be refunded by the Borough to the taxpayer, or credited to his account.

The return of an employer or employers, showing the amount of tax deducted by him or them from the salary, wages, commissions, compensation or earned income of any employee, and paid by him or them to the Officer shall be accepted as the return required of any employee whose sole income subject to the tax imposed by this Ordinance is such salary, wages, commissions, compensation or earned income.

Where the return is made for a fiscal year or any other period different from the calendar year 1984, said return shall be made within fifteen (15) days from the end of said fiscal year or other period.

Each taxpayer who discontinues business prior to December 31, 1984, shall, within fifteen (15) days after the discontinuance of business, file his ~~final~~ return as hereinabove required and pay ~~the~~ tax due.

Every employee receiving any earnings which are not subject to the provisions of Article 4 of this Ordinance relating to collection at source, who terminates his employment prior to December 31, 1984, shall, within fifteen (15) days after such termination, file his return as hereinabove required and pay the tax due.

#### ARTICLE 4

##### Collection at Source

Every employer within the Borough who employs other than domestic servants shall, within thirty (30) days after becoming an employer, register with the Officer his name, address and such other information as may be required under the provisions of this Ordinance or any rule or regulation promulgated pursuant thereto.

Every employer within the Borough who employs other than domestic servants, shall deduct monthly or more frequently than monthly, at the time of payment of compensation due by him to any employee, the tax of one-half of one per centum (1/2%) of the amount of compensation due such employee, and shall on or before April 30, 1984, July 31, 1984, October 31, 1984, and January 31, 1985, file a return and pay over to the Officer the amount of tax deducted, or the balance of any tax deducted and not previously remitted to the Officer. Such return shall be on a form furnished by or obtainable from the Officer and shall set forth the name and residence of each employee of said employer, and the employee's social security number during all or any part of the preceding period, the total amount of wages or compensation paid by said employer to each employee during said period; the amount of tax deducted, previous remittance, if any, to the Officer, and the balance remitted therewith.

Every employer who discontinues business prior to December 31, 1984, shall within fifteen (15) days after the discontinuance of business, file the return hereinabove required and pay the tax due.

Provided, however, that the failure or omission by an employer, either residing within or outside the said Borough, to deduct such tax and to make such return to the Officer shall not relieve any employee from the payment of the tax and the compliance with such regulations with respect to making declarations, returns and payment thereof, as may be established under this Ordinance.

Provided, however, that no taxpayer, from whose compensation the tax imposed hereunder shall have been deducted by his employer under the provisions of this Article shall be required to pay to the Officer the amount of tax so deducted by reason of any failure or refusal of such employer to pay to the Officer the tax so deducted.

Provided, also, however, that it shall be the duty of the employee to notify his employer promptly of any change of residence affecting his status as a taxpayer or non-taxpayer of the tax imposed by this

Ordinance; any employer withholding the tax imposed by this Ordinance from any taxpayer shall be and he is hereby authorized to continue to withhold said tax until the employer is notified by the employee of the change of residence of the employee which change of residence makes such employee no longer subject to the tax; any employee from whom taxes are not being withheld shall be under a duty, as soon as such employee becomes a resident of the said Borough, of notifying his employer so that the tax imposed by this Ordinance may be withheld.

## ARTICLE 5

### Powers and Duties of Officer.

#### 5.01

It shall be the duty of the Officer to collect and receive the taxes, fines and penalties, imposed by this Ordinance and to account therefor to the Borough Council in the same manner as is now provided by law for the collection and payment of other taxes collected by the elected Tax Collector of the Borough, and further to enforce the provisions of this ordinance and any rules and regulations adopted thereunder. It shall also be his duty, in addition to keeping the records now required by law or ordinance, to keep a record showing the amount of tax received by him from each taxpayer and the date of such receipt. He shall be bonded by a surety company legally authorized to transact business in the Commonwealth of Pennsylvania, in an amount sufficient, in the opinion of the Borough, to protect the Borough at all times for all monies coming into his hands for Borough purposes under this Ordinance, the costs of which bond shall be paid by the Borough.

For his service in administering and enforcing the provisions of this Ordinance and rules and regulations adopted thereunder and the collection of the taxes and penalties imposed by this Ordinance, the Officer shall receive such compensation as the Borough Council shall by resolution determine; and, in addition thereto, he shall receive reimbursement for expenses reasonably incurred in connection therewith.

#### 5.02 Rules and Regulations.

The Borough Council shall by resolution, prescribe, adopt, promulgate, and enforce rules and regulations relating to any manner, matter or thing pertaining to the administration and enforcement of the provisions of this Ordinance, including provision for reexamination and correction of declarations and returns, and of payments alleged or found to be incorrect or as to which an overpayment or underpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this Ordinance. Such rules and regulations shall have the same force and effect as if they had been incorporated into this Ordinance.

#### 5.03 Investigative Powers of the Officer.

The Officer ~~or~~ any other person designated by the Borough Council is

hereby authorized to examine the books, papers and records of any employer or supposed employer, or of any taxpayer or supposed taxpayer, in order to verify the accuracy of any declaration or return made, or, if no declaration or return was made, to ascertain the amount of tax due by any person under this Ordinance. Every such employer or supposed employer, or taxpayer or supposed taxpayer, is hereby directed and required to give to the Officer or such other authorized person the means, facilities and opportunity for such examinations and investigations as are hereby authorized. The Officer is hereby authorized to examine any person concerning any earnings and/or net profits which were or should have been returned for taxation, and to this end Borough Council may compel the production of books, papers and records and the attendance of all persons before it, whether as parties or witnesses, whom it believes to have knowledge of such earnings and/or net profits.

#### 5.04 Confidential Information.

Any information gained by the Officer or any other official or agent of the said Borough as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential, except for official purposes, and except in accordance with proper judicial order, or as otherwise provided by law; and any person or agent divulging such information, shall, upon conviction thereof before a District Justice of the County of Susquehanna, be subject to a fine or penalty of One Hundred (\$100.00) Dollars and costs of prosecution for each offense, and in default of payment of said fine and costs, to undergo imprisonment in the Susquehanna County Jail for not more than thirty (30) days.

### ARTICLE 6

#### Suit for Collection of Tax

All taxes imposed by this Ordinance, together with all interest and penalties due thereon, shall be recoverable in an action of assumpsit brought in the name of the said Borough or in such other manner as is now or may hereafter be authorized by law. Any suit brought to recover the tax imposed by this Ordinance 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 is later. Provided, however, that this limitation shall not prevent the institution of 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 Ordinance.
- B. Where an examination of the declaration or return in the possession of the Officer reveals a fraudulent evasion of taxes, including but not limited to substantial under-

statement of taxes deducted and of actual or estimated net profits or earnings.

- C. Where any person has deducted taxes under the provisions of this Ordinance and has failed to pay the amounts so deducted to the Officer.

#### ARTICLE 7

##### Interest and Penalties

All taxes imposed by this Ordinance remaining unpaid after they become due shall bear interest in addition to the amount of the unpaid tax at the rate of six per centum (6%) per annum, and the persons upon whom such taxes are imposed shall be further liable to a penalty of one-half of one per centum (1/2%) of the amount of the unpaid tax for each month or fraction of a month that such taxes shall remain unpaid.

#### ARTICLE 8

##### Fines and Penalties

Any person who shall violate any of the provisions or requirements of this Ordinance, or who shall fail, neglect or refuse to make any declaration or return required by this Ordinance, or any person who shall fail, neglect or refuse to pay the tax, penalties and interest imposed by this Ordinance, or any person who shall refuse to permit the Officer or any person designated by the Borough Council to examine his books, records and papers, or who shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid the full disclosure of the amount of earnings or net profits to avoid the payment of the whole or any part of the tax, shall, upon conviction thereof, before any District Magistrate of Susquehanna County, be subject to a fine or penalty of not more than One Hundred (\$100.00) Dollars and costs of prosecution for each such offense, and in default of payment of said fine and costs to undergo imprisonment in the Susquehanna County Jail for not more than thirty (30) days. Such fine or penalty shall be in addition to any other penalty imposed by any other section of this Ordinance. The failure of any employer or any taxpayer to receive or procure a declaration or return form required under this Ordinance shall not excuse him from making such declaration or return.

#### ARTICLE 9

##### Applicability

This Ordinance shall not apply:

- A. To any person or property as to whom or which it is beyond the legal power of the Borough Council to impose the tax or duties herein provided for.

- B. To institutions or organizations operated for public, religious, educational and charitable purposes, to institutions or organizations not organized or operated for private profit, or to trusts and foundations established for any of the said purposes.

ARTICLE 10

Construction

If any provision, sentence, clause, section or part 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, sections or parts of this Ordinance. It is hereby declared as the intent of Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid provision, sentence, clause, section or part thereof not been included therein.

ARTICLE 11

Effective Date

The provisions of this Ordinance shall become effective on the first day of January, 1984, and continue from year to year.

ARTICLE 12

Authorization

This Ordinance is enacted under and by virtue of the authority conferred by the Local Tax Enabling Act.

ARTICLE 13

Repealer

Any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance be, and the same are hereby, repealed insofar as the same may affect this Ordinance.

ORDAINED AND ENACTED INTO A LAW this 5<sup>th</sup> day of December ,  
A.D., 1983.

Jack Rittberg  
President

ORDAINED AND ENACTED INTO A LAW this 5<sup>th</sup> day of December ,  
A.D., 1983.

Philip L. Myers, Sr.  
Mayor