

CHAPTER 8

EARNED INCOME TAX

BOROUGH OF WYALUSING
ORDINANCE NO. 8

AN ORDINANCE CHAPTER NO. 8 EARNED INCOME TAX, OF THE CODE OF THE BOROUGH OF WYALUSING, COUNTY OF BRADFORD, COMMONWEALTH OF PENNSYLVANIA.

The Borough of Wyalusing hereby ordains and enacts as follows:

§ 1. Definitions.

For the purpose of this article the terms used herein are defined as follows:
TAXING DISTRICT - The Borough of Wyalusing, Bradford County, Pennsylvania.

§ 2. Tax imposed.

A. A tax for general revenue purposes is hereby imposed on the following at the rate of 1%:

(1) Earned income received and net profits earned by residents of Wyalusing Borough during the current year.

(2) Earned income received and net profits earned of and by all nonresident taxpayers for services rendered or work done within Wyalusing Borough, Bradford County, Pennsylvania, or arising or resulting from the operation of a business, profession or other activity (except corporations) conducted within or principally located within Wyalusing Borough, Bradford County, Pennsylvania.

B. If any taxpayer shall have earned income as hereinabove defined and during the same tax period shall have been engaged in a business, profession or other activity from the operation of which the taxpayer has income in determining said taxpayer's liability for tax.

C. The tax levied under this article shall be applicable to earned income received and to net profits earned in the period beginning July 1 of the current year and ending December 31 of the current year or for a period commencing on July 1 of the current year and ending on the end of the taxpayers' fiscal year thereafter during the year 1967. After the year 1967, the tax levied under this article shall be applicable to earned income received and to net profits earned in the period beginning January 1 and ending December 31 or for the taxpayers' fiscal year.

§ 3. Declaration and payment of tax.

A. Net profits.

- (1) Every taxpayer making net profits shall, on or before April 15 of the current year, make and file with the officer, on a form prescribed or approved by the officer, a declaration of his estimated net profits during the period beginning January 1 and ending December 31 of the current year and pay to the officer in four equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration and the other installment on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.
- (2) Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration hereinabove required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.
- (3) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the officer, on a form prescribed or approved by the officer, a final return showing the amount of net profits earned during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the officer, on or before January 31 of the succeeding year, the final return as hereinabove required.
- (4) The officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.

(5) Every taxpayer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

B. Earned income.

(1) Annual earned income tax return. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the officer, on a form prescribed or approved by the officer, a final return showing the amount of earned income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

(2) Earned income not subject to withholding. Every taxpayer who is employed for a salary, wage, commission or other compensation and who received any earned income not subject to the provisions relating to collection at source shall:

(a) Make and file with the officer, on a form prescribed or approved by the officer, an annual return setting forth the aggregate amount of earned income not subject to withholding from him during the period beginning January 1 and ending December 31 of the current year and such other information as the officer may require and pay to the officer the amount of tax shown as due thereon on or before April 15 of the succeeding year; or

(b) Make and file with the officer, on a form prescribed or approved by the officer, a quarterly return, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively, and subject to the tax, together with such other information as the officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the officer the amount of tax shown as due thereon.

§ 4. Collection at source.

A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within Wyalusing Borough who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within 15 days after becoming an employer, register with the officer his name and address and such other information as the officer may require.

B. Every employer having an office, factory, workshop, branch, warehouse or other place of business within Wyalusing Borough who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall deduct, at the time of payment thereof, the tax imposed by this article on the earned income due to his employee or employees and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year, and January 31 of the succeeding year, file a return and pay to the officer the amount of taxes deducted during the preceding three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively. Such return, unless otherwise agreed upon between the officer and employer, shall show the name, address and social security number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivision imposing the tax upon such employee, the total earned income of all such employees during such preceding three-month period and the total tax deducted therefrom and paid with the return.

C. Any employer who, for two of the preceding four quarterly periods, has failed to deduct the proper tax or any part thereof or has failed to pay over the proper amount of tax to the taxing authority may be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the officer on or before the last day of the month succeeding the month for which the tax was withheld.

D. On or before February 28 of the succeeding year, every employer shall file with the officer:

(1) An annual return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to the officer for the period beginning January 1 of the current year and ending December 31 of the current year.

(2) A return-withholding statement for each employee employed during all or any part of the period beginning January 1 of the current year and ending

December 31 of the current year, setting forth the employee's name, address and social security number; the amount of earned income paid to the employee during said period; the amount of tax deducted; the political subdivision imposing the tax upon such employee; and the amount of tax paid to the officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

E. Every employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

F. Except as otherwise provided in Section 9 of the Local Tax Enabling Act of 1965,EN every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of

the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.

G. 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 the resolution relating to the filing of declarations and returns.

§ 5. Powers and duties of officer.

A. It shall be the duty of the officer to collect and receive the taxes, fines and penalties imposed by this article. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.

B. The officer, before entering upon his official duties, shall give and acknowledge a bond to the Borough of Wyalusing, which shall be approved by the Borough Council.

C. The officer charged with the administration and enforcement of the provisions of this article is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the reexamination and correction of declarations and returns and of payments alleged or found to be incorrect or as to which the overpayment is claimed or found to have occurred and to make refunds in cases of overpayment, for any period of time not to exceed six years subsequent to the date of payment of the

sum involved, and to prescribe forms necessary for the administration of the resolution. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution by the Wyalusing Borough Council. A copy of such rules and regulations currently in force shall be available for public inspection.

D. The officer shall refund, on petition of and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.

E. The officer and agents designated by him are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the officer reasonably believes to be an employer or taxpayer 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 employer and every taxpayer and every person whom the officer reasonably believes to be an employer or taxpayer is hereby directed and required to give to the officer or to any agent designated by him the means, facilities and opportunity for such examination and investigations as are hereby authorized.

F. Any information gained by the officer, his agents or by any other official or agent of the taxing district as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this article shall be confidential, except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.

G. The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

H. The officer shall, at least quarterly, distribute earned income taxes to the appropriate political subdivisions. The political subdivisions shall not be required to request the officer to distribute the funds collected but shall, at least annually, reconcile their receipts with the records of the officer and return to or credit the officer with any overpayment. If the officer, within one year after receiving a tax payment, cannot identify the taxing jurisdiction entitled to a tax payment, he shall make payment to the municipality in which the tax was collected. Within 120 days of the passage of this article, any present accumulated funds that are unclaimed shall be distributed on the same basis.

§ 6. Suit for collection of tax.

A. The officer may sue in the name of Wyalusing Borough for the recovery of taxes due and unpaid under this article.

B. Any suit brought to recover the tax imposed by this article shall be begun within three years after such tax is due or within three years after the declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

(1) Where no declaration or return was filed by any person, although a declaration or return was required to be filed by him under provisions of this article, there shall be no limitation.

(2) Where an examination of the declaration or return filed by any person or of other evidence relating to such declaration or return in the possession of the officer reveals a fraudulent evasion of taxes, there shall be no limitation.

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

(4) Where any person has deducted taxes under the provisions of this article and has failed to pay the amounts so deducted to the officer or where any person has willfully failed or omitted to make the deductions required by this section, there shall be no limitation.

B. This section shall not be construed to limit the Borough of Wyalusing from recovering delinquent taxes by any other means provided by this article.

D. The officer may sue for recovery of an erroneous refund, provided that such suit is begun two years after making such refund, except that the suit may be brought within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

§7. Interest and penalties.

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

§ 8. Violations and penalties.

A. Any person who fails, neglects or refuses to make any declaration or return required by this article; any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees or fails, neglects or refuses to deduct or withhold the tax from his employees; any person who refuses to permit the officer or any agent designated by him to examine his books, records and papers; and any person who knowingly makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this article shall, upon conviction thereof before any District Justice or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and, in default of payment of said fine and costs be imprisoned for a period not exceeding 30 days.

B. Any person who divulges any information which is confidential under the provisions of this article, shall, upon conviction thereof before any District Justice or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense and costs and, in default of payment of said fines and costs, to be imprisoned for a period not exceeding 30 days.

C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this article.

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

§ 9. Legislative authority.

This article is adopted pursuant to the Act of Assembly, known as the "Local Tax Enabling Act," being Act No. 511 of the 1965 Legislature, signed into law by the Governor of Pennsylvania, December 31, 1965, effective January 1, 1966.

THIS ORDINANCE shall take effect immediately upon adoption.