

## **Chapter 24**

### **Taxation; Special**

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**Part 1****Earned Income and Net Profits Tax****§24-101. Imposition of Tax.**

1. A tax for general revenue purposes of ½ percent is hereby imposed on earned income and net profits earned by residents of the Township of Hepburn beginning on the first day of January, 1967, and continuing for each taxable year thereafter.

2. The tax levied hereunder, shall be applicable to earned income and net profits earned during the taxable year beginning January 1, 1967, and continuing for each taxable year thereafter without annual reenactment but shall be paid in accordance with returns to be filed on the basis of each calendar year. Subsequent changes in rate may be made and shall become effective on the date specified.

(Ord. 66-3, 1/1/1967)

**§24-102. Definitions.**

1. *General.* The following words and phrases, when used in this Part, shall have the meanings ascribed to them in this Section, except where the context clearly indicates or requires a different meaning:

2. *Specific Terms.*

*Association* - a partnership, limited partnership, or any other unincorporated group of two or more persons.

*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.

*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.

*Current year* - the calendar year for which the tax is levied.

*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 place in which a man has voluntarily fixed the habitation of himself and his family, 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.

*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 payments made by employers or labor unions for wage and salary supplement programs including, but not limited to, programs governing hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, Social Security and retirement.

*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.

*He, his, him* - in this tax enactment, the singular shall include the plural and the masculine shall include the feminine and the neuter.

*Income Tax Officer* - hereinafter referred to as "Officer." Person, public employee or private agency designated by the Board of Supervisors to collect and administer the tax on net profits and earned income.

*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.

*Nonresident* - a person, partnership, or other entity domiciled outside the taxing district.

*Person or individual* - a natural person.

*Preceding year* - the calendar year before the current year.

*Resident* - a person, partnership, association, or other entity domiciled in the taxing district.

*Succeeding year* - the calendar year following the current year.

*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.

(Ord. 66-3, 1/1/1967)

### **§24-103. Declaration and Payment of Tax.**

#### **1. Net Profits.**

A. Every taxpayer of the taxing district making any 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 installments on or before June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, respectively.

B. 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.

C. 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.

D. The Officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payment of 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.

E. 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.

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 of §24-104 hereof relating to collection at source, shall 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 3-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.

(Ord. 66-3, 1/1/1967)

#### **§24-104. Collection at Source.**

1. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing district 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.

2. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing district who employs one or more persons for a salary, wage, commission, or other compensation, other than domestic servants in a private home, agriculture labor or casual labor not in the course of the employer's trade or business, shall deduct at the time of payment thereof, the tax imposed hereunder 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 shall show the name, address and Social Security number of such employee, the earned income of such employee during the preceding 3-month period, the tax deducted therefrom, the total earned income of all such employees during such preceding 3-month period, and the total tax deducted therefrom and paid with the return.

3. 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.

4. On or before February 28 of the succeeding year, every employer shall file with the Officer on forms prescribed or approved by him:

A. 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, and such other information as may be required.

B. 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 amount of tax paid to the Officer, and such other information as the Officer may require. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

5. 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 hereinabove required and pay the tax due.

6. Except as otherwise provided in §24-109, 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.

7. 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 herein relating to the filing of declarations and returns.

(Ord. 66-3, 1/1/1967)

**§24-105. Powers and Duties of Officer.**

1. It shall be the duty of the Officer to collect and receive the taxes, fines and penalties imposed herein. 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.

2. The Officer, before entering upon his official duties shall give and acknowledge a bond to the taxing district. The taxing district may by resolution designate any bond currently given by the Officer as adequate, in which case such bond shall be sufficient to satisfy the requirements of this Section.

A. Each such bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of the Commonwealth.

B. Each bond shall be conditioned upon the faithful discharge by the Officer, his clerks, assistants and appointees of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required by him by virtue of his office, upon the just and faithful accounting or payment over, according to law, of all moneys and all balances thereof paid to, received or held by him by virtue of his office and upon the delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office.

C. The bond shall be taken in the name of the taxing district, and shall be for the use of the taxing district appointing the Officer, and for the use of such other person or persons for whom money shall be collected or received, or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the principal on the bond.

D. The taxing district, or any person, may sue upon the said bond in its or his own name for its or his own use.

E. The bond shall contain the name or names of the surety company or companies bound thereon. The taxing district shall fix the amount of the bond at an amount equal to the maximum amount of taxes which may be in the possession of the Officer at any given time.

F. The taxing district may, at any time, upon cause shown and due notice to the Officer, and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to such taxing district for the purpose of making the bond sufficient in amount, without releasing the surety or sureties first approved from any accrued liability or previous action on such bond.

G. The taxing district appointing the Officer shall designate the custodian of the bond required to be given by the Officer.

3. The Officer is hereby charged with the administration and enforcement of the provisions of the tax imposed herein, and is hereby empowered to prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of the tax imposed hereby, including provisions for the reexamination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed to have occurred, and to make refunds in case of overpayment for any period of time not to exceed 6 years

subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of the tax imposed herein. No rule or regulation of any kind shall be enforceable unless it has been approved by the Board of Supervisors of the taxing district. A copy of such rules and regulations currently in force shall be available for public inspection.

4. The Officer and agents designated by him are 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 or if no declaration or return was filed, to ascertain the tax due. Every employer or supposed employer, and every taxpayer or supposed taxpayer, is hereby directed and required to give the Officer, or to any agent designated by him, the means, facilities and opportunity for such examination and investigations, as are hereby authorized.

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

6. 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 herein, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

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

8. 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 1 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 Part, any present accumulated funds that are unclaimed shall be distributed on the same basis.

*(Ord. 66-3, 1/1/1967)*

#### **§24-106. Income Tax Officer; Deputy and Compensation.**

1. An Income Tax Officer shall be elected annually by the Board of Supervisors of the taxing district.

2. A Deputy Income Tax Officer may be elected and shall have such duties as are assigned to him by the Income Tax Officer.

3. The Income Tax Officer and, if one is elected, the Deputy Income Tax Officer shall receive such compensation as shall be determined by the Board of Supervisors of the taxing district.

*(Ord. 66-3, 1/1/1967)*

#### **§24-107. Suit for Collection of Tax.**

1. The Officer may sue in the name of the taxing district for the recovery of taxes

due and unpaid hereunder.

2. Any suit brought to recover the tax imposed herein shall be begun within 3 years after such tax is due, or within 3 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:

A. Where no declaration or return was filed by any person, although a declaration or return was required to be filed by him hereunder, there shall be no limitation.

B. 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.

C. In the case of substantial understatement of tax liability of 25 percent or more, and no fraud, suit shall be begun within 6 years.

D. Where any person has deducted taxes under the provisions hereunder, 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 return, there shall be no limitation.

E. This Section shall not be construed to limit the Board of Supervisors from recovering delinquent taxes by any other means provided by the Local Tax Enabling Act, 53 P.S. §6901 *et seq.*

3. The Officer may sue for recovery of an erroneous refund provided such suit is begun within 2 years after making such refund, except that the suit may be brought within 5 years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

(Ord. 66-3, 1/1/1967)

#### **§24-108. Interest and Penalties.**

If for any reason the tax is not paid when due, interest at the rate of 6 percent per annum on the amount of said tax, and an additional penalty of  $\frac{1}{2}$  of 1 percent 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.

(Ord. 66-3, 1/1/1967)

#### **§24-109. Fines and Penalties.**

1. Any person who fails, neglects, or refuses to make any declaration or return required hereunder, 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 hereunder,

upon conviction thereof before any justice magisterial district judge, shall 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 to be imprisoned for a period of not exceeding 30 days. All fines and penalties collected by any justice of the peace, alderman or magistrate shall be paid to the officer of the taxing district, to be credited to the account of the taxing district. [*Ord. 8.5.2008*]

2. Any person who divulges any information which is confidential under the provisions of this Part herein, upon conviction thereof before any magisterial district judge, shall 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. [*Ord. 8.5.2008*]

3. The penalties imposed under this Section shall be in addition to any other penalty imposed by any other Section hereof.

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

(*Ord. 66-3, 1/1/1967; as amended by Ord. 8.5.2008, 8/5/2008*)

**Part 2****Realty Transfer Tax****§24-201. Imposition of the Tax.**

Hepburn Township adopts the provisions of Article XI-D of the Tax Reform Code of 1971 and imposes a realty transfer tax as authorized under that Article subject to the rate limitations therein. The tax imposed under this Section shall be at the rate of  $\frac{1}{2}$  of 1 percent.

*(Res. 7.03.07.01, 7/3/2007, §1)*

**§24-202. Administration.**

The tax imposed under §24-201 and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965, P.L. 1257, No. 511, as amended, known as the "Local Tax Enabling Act;" provided, that if the correct amount of the tax is not paid by the last date prescribed for timely payment, Hepburn Township, pursuant to §1102-D of the Tax Reform Code of 1971, 72 P.S. 8102-D, authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties.

*(Res. 7.03.07.01, 7/3/2007, §2)*

**§24-203. Interest.**

Any tax imposed under §24-201 that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923, P.L. 207, No 153, 53 P.S. 7101 *et seq.*, as amended, known as the "Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in §806 of the Act of April 9, 1929, P.L. 343, No. 176, 72 P.S. 806, as amended, known as the "Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

*(Res. 7.03.07.01, 7/3/2007, §3)*

