

MARION TOWNSHIP, CENTRE COUNTY

ORDINANCE

3

PROVIDING FOR THE ASSESSMENT, LEVY AND COLLECTION OF A TAX FOR GENERAL REVENUE PURPOSES UPON SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED OR RECEIVED ON OR AFTER JULY 1, 1968 BY RESIDENTS OR NON-RESIDENTS OF MARION TOWNSHIP, AND ON THE NET PROFITS EARNING ON OR JULY 1, 1968 OF BUSINESSES, PROFESSIONS AND OTHER ACTIVITIES CONDUCTED BY SUCH RESIDENTS or NON-RESIDENTS REQUIRING THE FILING OF RETURNS AND THE GIVING OF INFORMATION BY EMPLOYERS AND THOSE SUBJECT TO SAID TAX; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING THE TAX AT ITS SOURCE: PROVIDING FOR THE ASSESSMENT, ADMINISTRATION, COLLECTION AND ENFORCEMENT OF THE SAID TAX: AND IMPOSING PENALTIES.

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF MARION TOWNSHIP, CENTRE COUNTY, PENNSYLVANIA, that in accordance with Act 511 approved December 31, 1965 the following Ordinance is enacted to become effective July 1, 1968.

I. DEFINITIONS

SECTION ONE: DEFINITIONS.

"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 on 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 supplemental programs, including, but not limited to, programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.

"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.

"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.

"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, association 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 Marion Township.

"Succeeding year." The calendar year following the current year.

"Taxpayer." A person, partnership, association, or any other entity, requiring hereunder to file a return of earned income or net profits, or to pay a tax thereon.

"Township." The Township of Marion, Centre County, Pennsylvania.

II. IMPOSITION OF TAX

The following annual tax is hereby imposed for general Township purposes:

(a) One-half of 1% (.005) of all earned income earned or received after July 1, 1968.

(b) 1/2% (.005) of net profits earned after July 1, 1968 of businesses, professions and other activity engaged in or conducted by residents or non-residents of Marion Township.

The tax levied under this act shall be applicable to earned income received and to net profits earned in the period beginning January 1, of the current year, and ending December 31, of the

current year or for taxpayer fiscal years beginning in the current year, except that taxes imposed for the first time shall become effective from the date of July 1, 1968 and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed. Changes in rate shall become effective on the date specified in the ordinance.

III PAYMENT OF TAX

A. NET PROFITS

(1) Every taxpayer making net profits shall, pay to the officer an annual payment of tax due on or before April 15, of the succeeding year for the period beginning January 1, and ending December 31, of the current year

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

B. EARNED INCOME

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.

EARNED INCOME NOT SUBJECT TO WITHHOLDING

or other compensation and who received any earned income not subject to the provisions relating: to collection at source, shall 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.

IV. COLLECTION AT SOURCE

(a) Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the township imposing a tax on earned income or net profits 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 fifteen days after becoming an employer, registered 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 the township imposing a tax on earned income or net profits within the township 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 ordinance 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

unless otherwise agreed upon between the officer and employer shall show the name 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 subdivisions 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.

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 township, 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.

(c) 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 subdivisions imposing the tax upon such employee, 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.

(d) Every employer who discontinues business prior to December 31, of the current year, shall, within thirty days after

the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

(e) Except as otherwise provided in Section 9, 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.

(f) 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 ordinance or resolution relating to the filing of declarations and returns.

V. 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 the ordinance. 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) Each officer, before entering upon his official duties shall give and acknowledge a bond to the township.

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 this Commonwealth.

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 of him by virtue of his office,

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.

Each such bond shall be taken in the name of the township and shall be for the use of the township 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.

(c) The officer charged with the administration and enforcement of the provisions of the ordinance or resolution is hereby empowered to prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of the ordinance or resolution, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in case 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 ordinance or resolution. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution by the governing body. 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

authorize to examine the books, papers and records of any employer 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, hearing or verifications required or authorized by the ordinance or resolution, 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.

VI. COMPENSATION OF INCOME

TAX OFFICER

The income tax officer shall receive such compensation for his services and expenses as determined by the township.

VII. SUIT FOR COLLECTION OF TAX

(a) The officer may sue in the name of the taxing district for the recovery of taxes due and unpaid under this ordinance.

(b) Any suit brought to recover the tax imposed by the ordinance or resolution 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

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

(2) Where an examination of the return filed by any person, or of other evidence relating to such 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 twenty-five per cent or more, and no fraud, suit shall be begun within six years.

(4) Where any person has deducted taxes under the provisions of the ordinance or resolution, 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.

(5) This section shall not be construed to limit the township from recovering delinquent taxes by any other means provided by this act.

(c) The officer may sue for recovery of an erroneous refund provided 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.

VIII. INTEREST AND PENALTIES

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

IX. FINKS AND PENALTIES FOR
VIOLATION OF ORDINANCES
OR RESOLUTIONS

(a) Any person who fails, neglects, or refuses to make any return required by the ordinance, 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 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 the ordinance or resolution, shall, upon conviction thereof before any justice of the peace, alderman or magistrate, or court of competent jurisdiction in the county or counties in which the political subdivision imposing the tax is located, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each offense, and costs, and in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty days.

(b) Any person who divulges any information which is confidential under the provisions of the ordinance or resolution, shall, upon conviction thereof before any justice of the peace, alderman or magistrate, or court of competent jurisdiction, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each offense, and costs, and in default of payment of said (part of sentence missing) for a period not exceeding thirty days.

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

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

ENACTED AS AN ORDINANCE OF THE TOWNSHIP OF MARION,
THIS 3rd. DAY OF MAY, 1968.

MARION TOWNSHIP