

OHIO TOWNSHIP

ORDINANCE NO. 46

AN ORDINANCE IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON SALARIES, WAGES, COMMISSIONS, COMPENSATION AND OTHER EARNED INCOME OF RESIDENTS OF OHIO TOWNSHIP AND ON SALARIES, WAGES, COMMISSIONS, COMPENSATION AND OTHER EARNED INCOME OF NON-RESIDENTS OF OHIO TOWNSHIP FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN OHIO TOWNSHIP AND ON THE NET PROFITS EARNED FROM BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED BY RESIDENTS OF OHIO TOWNSHIP AND ON THE NET PROFITS EARNED FROM BUSINESSES, PROFESSIONS AND OTHER ACTIVITIES CONDUCTED IN OHIO TOWNSHIP BY NON-RESIDENTS; REQUIRING THE FILING OF DECLARATIONS AND RETURNS STATING THE DUTIES OF EMPLOYERS AND THOSE SUBJECT TO THE TAX; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE ORDINANCE AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of Ohio Township by virtue of the authority of the Act of June 25, 1947, P. L. 1145, as amended, and it is hereby ordained and enacted by and with the authority of the same:

Section 1. Short Title. This Ordinance shall be known as "The Ohio Township Earned Income Tax Ordinance."

Section 2. Definitions. The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning.

- (a) Association - a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (b) Business - an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, or any other entity.
- (c) 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.

(d) Earnings - salaries, wages, commissions, compensation and other earned income as defined in this Ordinance.

(e) Employer - an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity employing one or more persons on a salary, wage, commission or other compensation basis.

(f) Net Profits - the net gain from the operation of a business, profession or enterprise, 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 enterprise, but without deduction of taxes based on income.

(g) Non-Resident - an individual, partnership, association or other entity domiciled outside Ohio Township.

(h) Person - a natural person, partnership, corporation, fiduciary or association. 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.

(i) Resident - an individual, partnership, association or other entity domiciled in Ohio Township.

(j) Salaries, wages, commissions, compensation and other earned income - any salaries, wages, commissions, bonuses, incentive payments, fees and tips that may accrue or be received by an individual for services rendered, whether directly or through an agent and whether in cash or in property; but shall not include 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, nor public assistance or unemployment compensation payments, nor any wages or compensation paid by the United States to any person for active service in the Army, Navy or Air Force, nor any bonus or additional compensation paid by the United States for such service.

(k) Taxpayer - a person whether an individual, partnership, association, or any other entity, required hereunder to file a return of earnings or net profits, or to pay tax thereon.

(l) Collector - the Tax Collector appointed by resolution of the Board of Supervisors to administer this tax and the collection of the same as hereinafter provided.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

Section 3. Imposition of Tax. A tax for general revenue purposes of one-half of one per centum (1/2 of 1%) is hereby imposed on the following:

(a) Salaries, wages, commissions and other compensation earned during the period beginning February 1, 1961 and ending December 31, 1961, by residents of Ohio Township.

(b) Salaries, wages, commissions and other compensation earned during the period beginning February 1, 1961, and ending December 31, 1961, by non-residents of Ohio Township for work done or services rendered or performed in Ohio Township.

(c) Net profits earned during the period beginning February 1, 1961, and ending December 31, 1961, of businesses, professions and other activities conducted by residents of Ohio Township.

(d) Net profits earned during the period beginning February 1, 1961, and ending December 31, 1961, of businesses, professions and other activities conducted in Ohio Township by non-residents, thereof.

The tax levied under (a) and (b) herein shall relate to and be imposed upon salaries, wages, commissions and other compensation 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) herein shall relate to and be imposed on the net profits of any business, profession or enterprise carried on by any person as owner or as proprietor, either individually or in association with some other person or persons.

Section 4. Declaration and Payment of Tax

(a) Every taxpayer who anticipates any earnings or net profits subject to the tax hereby imposed shall on or before April 15, 1961, make and file with the Collector on a form prescribed by him, a declaration of his estimated earnings or net profits or both during the period beginning February 1, 1961, and ending December 31, 1961, and such other information as the Collector may require.

(b) The declaration shall show the estimated amount of tax imposed by this Ordinance on such estimated earnings or net profits or both. The taxpayer making the declaration shall at the time of filing thereof, pay to the collector, the estimated amount of tax shown as due thereon; PROVIDED however, that the taxpayer shall have the right to pay the estimated tax or the balance of estimated tax due as shown on his declaration in four (4) equal quarterly installments as follows: The first installment at the time of filing the declaration on or before April 15, 1961, and the other installments on or before July 15, 1961, October 15, 1961 and March 15, 1962, respectively. And provided further, that any taxpayer may file an amended declaration on or before the due date of any quarterly installment and pay an amount of his new estimated tax sufficient to pay the same proportion of the new estimated tax as would have been paid of the old estimated tax at the time of filing the amended declaration; i.e., one-fourth (1/4) on April 15, 1961, one-half (1/2) on July 15, 1961, three-fourths (3/4) on October 15, 1961, and the balance of tax due as shown on the taxpayers final return on March 15, 1962.

(c) On or before March 15, 1962, every taxpayer shall file a final return with the Collector upon a form prescribed by him showing at least: (1) his actual earnings or net profits or both for the period beginning February 1, 1961, and ending December 31, 1961; (2) the total tax on said earnings or net profits or both as imposed by this Ordinance; (3) the balance of said tax remaining unpaid at the time of filing said final return, which said balance shall be due and payable on or before March 15, 1962.

(d) Every taxpayer who discontinues business prior to December 31, 1961, shall, within fifteen (15) days after the discontinuance

of business, file his final return as hereinabove required and pay the tax due.

(e) Every employee receiving any earnings subject to tax who terminates his employment or moves from the Township, if a resident, prior to December 31, 1961, shall, within seven (7) days after such termination or removal, file his final return as hereinabove required and pay the tax due.

(f) Every employer in Ohio Township employing persons subject to the tax imposed by this Ordinance is hereby designated an agent for the Township and shall withhold from the salaries, wages, commissions, and other earned compensation due and owing from the employer, to each such employee the amount of tax due hereunder and shall remit the same quarterly to the Collector on or before April 15, 1961, July 15, 1961, October 15, 1961, and March 15, 1962, and shall also file with the Collector, on forms supplied by him, such information concerning the salaries, wages, commissions or other earned compensation of each of such employees, as may be required by the Collector. Any employer who fails to withhold and remit said tax from the salary, wages, commissions and other earned compensation of any employee subject to this tax shall be deemed a taxpayer hereunder and shall be subject to payment of the tax which should have been withheld and remitted and all the provisions of this Ordinance jointly and severally with the employee, provided that the failure of an employer to withhold or remit the tax due hereunder from any earnings of an employee subject to the tax shall not relieve the employee from complying with all the terms and provisions of this Ordinance.

#### Section 5. Powers and duties of Collector.

(a) It shall be the duty of the Collector to collect and receive the taxes, fines and penalties imposed by this Ordinance. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.

(b) The Collector is hereby charged with the administration and enforcement of the provisions of this Ordinance, and is hereby empowered to prescribe, adjust, promulgate and enforce rules and regulations

relating to any matter pertaining to the administration and enforcement of this Ordinance, including provision 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 prescribe forms necessary for the administration of this Ordinance.

(c) The Collector, 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 to the Collector or to any agent designated by him, the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

(d) Any information gained by the Collector, his agents, or by any other official or agent of Ohio Township 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 a proper judicial order or as otherwise provided by law.

(e) Any person aggrieved by any action of the Collector shall have the right to appeal as provided by law.

#### Section 6. Suit for Collection of Tax.

(a) The Collector may sue for the recovery of taxes due and unpaid under this Ordinance.

(b) 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 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 the provisions of this Ordinance.

(2) Where an examination of the declaration or return in the possession of the Collector reveals a fraudulent evasion of taxes, including but not limited to the actual or estimated earnings or net profits.

Section 7. Interest and Penalties. If for any reason the tax is not paid when due, interest at the rate of six (6%) per centum per annum on the amount of said tax, and a penalty of one-half of one per centum (1/2 of 1%) of the amount of the unpaid tax for each calendar month or fraction thereof during which the tax remains unpaid shall be added and collected. In the event the taxpayer elects to pay his estimated tax as shown upon his declaration in equal quarterly installments as hereinbefore provided, said interest and penalties shall be due and payable upon any installment of said estimated tax remaining unpaid after the due date thereof as hereinbefore provided. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition to the tax due, be liable for the costs of collection and the interest and penalties herein imposed.

Section 8. Payment Under Protest and Refunds.

(a) The Collector is hereby authorized to accept payment under protest 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 determined by a court of competent jurisdiction that there has been an overpayment to the Collector, the amount of the overpayment shall be refunded to the person who paid under protest.

(b) In the event the Collector determines that any taxpayer has overpaid the amount of tax (including penalties and interest, if any) the amount of the overpayment as determined by the Collector and certified to the Board of Supervisors, may be refunded to the taxpayer by the Treasurer out of general township funds upon authorization of the Board of Supervisors.

Section 9. Applicability. The tax imposed by this Ordinance

shall not apply:

(a) To any person as to whom it is beyond the legal power of Ohio Township to impose the tax herein provided for under the constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.

(b) To institutions or organizations for public, religious, educational or charitable purposes, not operated for profit or to trusts and foundations established for any of the said purposes.

(c) To any employers' or employees' pension funds or other funds to promote the general welfare of the employees.

Section 10. Joint Collection Agreements. The taxes levied and imposed hereunder may be collected in the manner specified herein or in such other manner or manners as may be provided from time to time by agreement or agreements between the Township and Avonworth Union School District which levies a similar tax upon residents of the Township.

Section 11. Fines and Penalties.

(a) Any person who fails, neglects or refuses to file a declaration or make any return required by this Ordinance; any taxpayer who shall fail, neglect or refuse to pay the tax, penalties and interest imposed by this Ordinance; any person who refuses to permit the Collector, 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 earnings to avoid the payment of the whole or any part of the tax imposed by this Ordinance, shall upon conviction thereof before any Justice of the Peace, be sentenced to pay a fine of not more than One Hundred (\$100.00) Dollars for each offense and costs, and in default of payment of said fine and costs within ten (10) days from the imposition thereof, to be imprisoned in the Allegheny County Jail or the Allegheny County Workhouse for a period not exceeding thirty (30) days and shall also pay the tax, penalty and interest determined by the Collector to be due from him.



(b) Any person who divulges any information in violation of the provisions of sub-section (d) of Section 5 of this Ordinance shall, upon conviction thereof before any Justice of the Peace, be sentenced to pay a fine of not more than One Hundred (\$100.00) Dollars for each offense and costs, and, in default of payment of said fine and costs within ten (10) days from the imposition thereof, to be imprisoned in the Allegheny County Jail or Allegheny County Workhouse for a period not exceeding thirty (30) days.

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

(d) The failure of any person to receive or procure the forms required for making the returns required by this Ordinance shall not excuse him from making such return or from paying the tax due.

Section 12. Severability. The provisions of this Ordinance are severable. If any sentence, clause or section 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 or sections of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause or section not been included herein.

ORDAINED and ENACTED into a law this 21<sup>st</sup> day of December,

1960.

ATTEST:

Alvera Ballinger  
Secretary

Golden E. Thomas  
Chairman, Board of Supervisors