

ORDINANCE NO. 5 , 1965

AN ORDINANCE IMPOSING A TAX FOR GENERAL TOWNSHIP PURPOSES ON SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED DURING THE PERIOD BEGINNING JULY 1, 1965 AND ENDING DECEMBER 31, 1965, BY RESIDENTS OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA, AND ON THE NET PROFITS EARNED DURING THE SAID PERIOD BY BUSINESSES, PROFESSIONS AND OTHER ACTIVITIES CONDUCTED BY THE RESIDENTS OF THE TOWNSHIP OF TILDEN REQUIRING THE FILING OF RETURNS AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE ORDINANCE AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ENACTED AND ORDAINED, AND IT IS HEREBY ENACTED

AND ORDAINED by the Supervisors of the Township of Tilden, Berks County, Pennsylvania under the authority of the Act of June 25, 1947, P.L. 1145, as amended, as follows:

SECTION 1 - Definitions. The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section.

"ASSOCIATION"- A partnership, limited partnership or any other unincorporated group of two or more persons.

"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.

"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.

"EARNINGS" - Salaries, wages, commissions and other compensation as defined in this resolution.

"EMPLOYER" - An individual, partnership, association, corporation, governmental body or unit or agency, or any other entity employing one or more persons on a salary, wage, commission or other compensation basis.

"NET PROFITS"- The net income from the operation of a business, profession or other activity, 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 other activity, but without deduction of taxes based on income.

"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 association shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

"RESIDENT"- An individual, partnership, association or other entity domiciled in the Township of Tilden.

"SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATIONS" - 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; not including 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, or public assistance or unemployment compensation payments made by any governmental agent, or any wages or compensation paid by the United States to any person for active service in the Army, Navy, or Air Force of the United States or the Commonwealth of Pennsylvania or any other state for such service.

"TAXABLE"- Subject to the tax imposed by this Ordinance.

"TAXPAYER"- A person, whether an individual, partnership, association or any other entity.

"INCOME TAX OFFICER"- Person designated by the Board of Supervisors of the Township of Tilden to administer the provisions of the Earned Income Tax Ordinance.

SECTION 2 -Imposition of Tax- A tax for general revenue purposes of one per cent (1%) is hereby imposed on the following:

(a) Salaries, wages, commissions and other compensation earned on and after July 1, 1965 by individual residents of the Township of Tilden.

(b) Net profits earned on and after July 1, 1965, by residents of the Township of Tilden.

The tax levied under (a) herein shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to a person who is employed by him. The tax levied under (b) herein shall relate to and be imposed upon the net profits of any business, profession or other activity carried on by any person or persons.

Every corporation which is subject to the Pennsylvania Corporate Net Income Tax or exempt from the Pennsylvania Corporate Net Income Tax, and every foreign corporation which is subject to the Pennsylvania Franchise Tax or exempt from the Pennsylvania Franchise Tax, shall be exempt from the tax imposed by this Ordinance.

The tax levied by this Ordinance shall be applicable to salaries, wages, commissions and other compensation, and to net profits earned during the period beginning July 1, 1965 and ending December 31, 1965.

SECTION 3 - Declaration and payment of tax.

(a) Net Profits.

(1) On or before April 15, 1966 each taxpayer who has earned taxable net profits shall make and file with the income tax officer on a form prescribed by him, a return showing all of such net profits for the period beginning July 1, 1965 and ending December 31, 1965, and the total amount of tax due. At the time of filing the return the taxpayer shall pay the tax due.

(2) Any taxpayer who discontinues business prior to December 31, 1965 shall, within thirty (30) days after the discontinuance of business, file his return as hereinabove required and pay the tax due.

(b) Salaries, Wages, Commissions and other Compensation.

On or before April 15, 1966 every taxpayer who has received taxable salaries, wages, commissions and other compensation shall make and file with the Income Tax Officer on a form prescribed by him, a final return showing all of such salaries, wages, commissions and other compensation earned during the period beginning July 1, 1965 and ending December 31, 1965, and the total amount of tax due thereon. At the time of filing the said return the taxpayer shall pay the tax due.

SECTION 4 - Powers and Duties of the Income Tax Officer.

(a) It shall be the duty of the Income Tax Officer 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 if paid by such person in respect of another person, the name of such other person, and the date of such receipt.

(b) The Income Tax Officer is hereby charged with the administration and enforcement of the provisions of this Ordinance and is hereby empowered to prescribe, adopt and promulgate, subject to the approval of the Board of Supervisors of the Township of Tilden, rules and regulations relating to any matter pertaining to the administration and enforcement of this Ordinance, including provisions for the re-examination and correction of returns, and including the prescribing of forms necessary for the administration of this Ordinance. The Income Tax Officer is hereby charged with the enforcement of such rules and regulations.

(c) The Income Tax Officer and agents designated in writing by him are hereby authorized to examine the books, papers, and records of any person 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 person is hereby directed and required to give to the Income Tax Officer or to any agent so designated by him, the opportunity for such examinations and investigations as are hereby authorized.

(d) Any information gained by the Income Tax Officer, his agents, or by any other official, agent or employee of the Township of Tilden as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential and shall not be disclosed to any person except for the official use in connection with the administration or enforcement of this Ordinance, or as otherwise provided by law.

(e) Any person aggrieved by any action of the Income Tax Officer shall have the right of appeal as provided by law.

SECTION 5 - Suit for Collection of Tax.

(a) The Income Tax Officer may sue in the name of the Township of Tilden for the recovery of taxes due and unpaid under this Ordinance.

(b) Any suit brought to recover tax imposed by this Ordinance shall be begun within five (5) years after such tax is due, or within five (5) years after the declaration or return has been filed, whichever date is the 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) In the case of a false or fraudulent declaration or return with the intent to evade tax;

(3) Where any person has deducted taxes under the provisions of this Ordinance and has failed to pay the amounts so deducted to the Township of Tilden.

SECTION 6 - Interest and penalties.

If for any reason the tax is not paid when due, interest at the rate of six per cent (6%) per annum on the amount of said tax, and an additional penalty of one-half of one per cent (.5%) of the amount of the tax unpaid 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.

SECTION 7 - Payments and Refunds.

The Income Tax Officer is hereby authorized to accept payment 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 judicially determined by a Court of competent jurisdiction that there has been an overpayment to the Income Tax Officer, the amount of the overpayment shall be refunded to the person who paid.

SECTION 8 - Applicability.

The tax imposed by this Ordinance shall not apply -

(a) To the net profits of any institution or organization operated for public, religious, educational or charitable purposes, or to a Trust or Foundation established for any of the said purposes.

SECTION 9 - FINES AND PENALTIES FOR VIOLATION OF ORDINANCE

(a) Any person who fails, neglects, or refuses to make any declaration or return required by this Ordinance; any person who refuses to permit the Income Tax Officer or any agent properly designated by him to examine his books, records and papers; and any person who makes any incomplete, false or fraudulent return to avoid 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 Three Hundred Dollars (\$300.00) for each offense, and costs, and, in default of payment of said fine and costs, to be imprisoned in the Berks County Jail for a period not exceeding ninety (90) days.

(b) Any person who, except as permitted by the provisions of Sub-Section (d) of Section 4 of this Ordinance, divulges any information which is confidential under the provisions of the Sub-Section shall, upon conviction thereof before any Justice of the Peace, be sentenced to pay a fine of not more than Three Hundred Dollars (\$300.00) for each offense, and costs, and, in default of payment of said fine and costs, to be imprisoned in the Berks County Jail for a period not exceeding ninety (90) 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 any declaration or return required by this Ordinance shall not excuse him from making such declaration or return.

SECTION 10 - 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 of the Township of Tilden that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, or section not been included herein.

ENACTED this 7th day of August, 1965.

Harold R. Studd

Ernest J. Estey

George E. Savage
Supervisors of Tilden Township

Attest:

Anna M. Schlichter
Secretary