

**SADSBURY TOWNSHIP
CRAWFORD COUNTY, PENNSYLVANIA**

Ordinance No. 2011 - 195

AN ORDINANCE TO LEVY AND ASSESS THE EARNED INCOME AND
NET PROFITS TAX PURSUANT TO AUTHORITY OF THE
PENNSYLVANIA LOCAL TAX ENABLING ACT.

WHEREAS, by Act 32 of 2008, the Pennsylvania legislature made substantial changes to the Pennsylvania Local Tax Enabling Act pertaining to the levy and collection of the earned income and net profits tax by Pennsylvania municipal governments and school districts.

WHEREAS, the Board of Supervisors of Sadsbury Township desires to enact a new ordinance authorizing the levy and collection of the earned income and net profits tax in a manner consistent with the governing authority of the Local Tax Enabling Act, as amended by Act 32 of 2008, and as otherwise amended.

WHEREAS, it is intended that this Ordinance shall continue, reaffirm and update the existing levy of the earned income and net profits tax under terms consistent with the current law and does not levy a new tax.

NOW, THEREFORE, be it ordained by the Board of Supervisors of Sadsbury Township, and it is hereby ordained by and with the authority of same as follows:

Section 1. Title. The title of this Ordinance is the Sadsbury Township Earned Income and Net Profits Tax Ordinance.

Section 2. Purpose. The purpose of this Ordinance is to continue, reaffirm and update the ordinance for the levy of the Earned Income and Net Profits Tax to meet the existing requirements of the Local Tax Enabling Act as same has been and may be further amended.

Section 3. Authority. This Ordinance is adopted pursuant to the authority of the Local Tax Enabling Act, Act 511 of 1965, as amended by Act 32 of 2008 and as otherwise amended, found at 53 P.S. § 6924.101, *et seq.*

Section 4. Definitions.

Local Tax Enabling Act (or "LTEA") – Act 511 of 1965, enacted December 31, 1965, P.L. 1257, as thereafter amended, and including Act 32 adopted July 2, 2008, as thereafter amended, which Act is found at 53 P.S. § 6913 (until repealed effective June 30, 2012) and 53 P.S. § 6924.101, *et seq.*, as same may be hereafter amended.

Earned Income and Net Profits Tax or Tax – The tax levied on earned income and net profits under authority of the Local Tax Enabling Act.

Earned Income – The compensation as required to be reported to or as determined by the Department of Revenue under Section 303 of the act known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section. Employee business expenses as reported to or determined by the Department of Revenue under Article III of the Tax Reform Code of 1971 shall constitute allowable deductions in determining earned income. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

Net Profits – The net income from the operation of a business, other than a corporation, as required to be reported to or as determined by the Department of Revenue under Section 303 of the act known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section. The term does not include any:

1. Income which:
 - (i) is not paid for services provided; and
 - (ii) is in the nature of earnings from an investment.
2. Income which represents:
 - (i) any gain in the sale of farm machinery;
 - (ii) any gain on the sale of livestock held twelve (12) months or more for draft, breeding or dairy purposes; and
 - (iii) any gain on the sale of other capital assets of a farm.

Employer – A person, business entity or other entity, employing one or more persons for a salary, wage, commission or other compensation. The term includes the Commonwealth, a political subdivision and an instrumentality or public authority of either. For purposes of penalties, the term includes a corporate officer.

Person – A natural person.

Resident – A person or business domiciled in the political subdivision levying the tax.

Nonresident – A person or business domiciled outside the political subdivision levying the tax.

Taxpayer – A person or business required under this Ordinance to file a return or to pay a tax.

Tax Collection Committee or TCC - The committee established to govern the Crawford County Tax District for purpose of collection of the Earned Income and Net Profits Tax.

Tax Collection District – The tax collection district established under Section 504 of the LTEA, encompassing political subdivisions in Crawford County and surrounding counties.

Tax Officer - The person(s) or entity(s) appointed by the Tax Collection Committee to collect the Earned Income and Net Profits Tax for political subdivisions within the Crawford County Tax Collection District.

Tax Year or "Current Year" – The calendar year for which the tax is levied.

Succeeding Year – The calendar year following the tax year.

Township – shall mean Sadsbury Township, its governing body and duly appointed representatives. It shall also mean political subdivision or municipality as those terms are used in this Ordinance.

The definitions as found in the Local Tax Enabling Act, as amended from time to time are hereby incorporated herein by reference and shall be applied in the administration and enforcement of this Ordinance.

Section 5. Levy of Earned Income and Net Profits Tax. In accordance with the provisions of the Local Tax Enabling Act, Sadsbury Township hereby levies and assesses a tax for general revenue purposes at the rate of one percent (1%) on the earned income and net profits of residents of Sadsbury Township and on the earned income and net profits of nonresidents who receive earned income and net profits from any work, business, profession or activity performed or rendered in Sadsbury Township.

Section 6. Local Tax Enabling Act Applicable. This Tax is imposed under authority of the Local Tax Enabling Act. All provisions of the Local Tax Enabling Act that govern the levy, administration and collection of the tax on earned income and net profits are incorporated into this Ordinance by reference as though set forth herein. Any future amendments to the Local Tax Enabling Act that are required to be applied to the levy and collection of a tax on earned income or net profits shall automatically become part of this Ordinance upon the effective date of such amendment, without the need for formal amendment of this Ordinance, to the maximum extent allow by law.

Section 7. Tax Levied for 2012 and Each Year Thereafter. The Tax hereby levied and assessed shall be levied and assessed for the calendar year 2012 and each year thereafter, without annual reenactment or levy.

Section 8. Applicable Laws, Regulations, Policies and Procedures. This Tax shall be collected and administered in accordance with the applicable provisions of the Local Tax Enabling Act, other applicable laws and regulations; and regulations, policies and procedures adopted by this political subdivision, the Tax Collection Committee, or by the Tax Officer. This includes any regulations, policies, and procedures adopted in the future to the maximum extent allowed by law.

Section 9. Employers Obligations. Employers shall withhold, remit and report taxes imposed by this Ordinance as follows:

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection 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 (15) days after becoming an employer, register with the Tax Officer the name and address of the employer and such other information as the Department of Community and Economic Development (DCED) may require.

- B. An employer shall require each new employee to complete a certificate of residency form, which shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4). An employer shall also require any employee who changes their address or domicile to complete a certificate of residency form. The certificate of residency form shall provide information to help identify the political subdivisions where an employee lives and works.
- C. Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district that employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall, at the time of payment, deduct from the compensation due each employee employed at such place of business the greater of the employee's resident tax or the employee's nonresident tax as released in the official register maintained by the DCED.
- D. Except as set forth in paragraph E. below, within thirty (30) days following the end of each calendar quarter, every employer shall file a quarterly return and pay the amount of taxes deducted during the preceding calendar quarter to the Tax Officer for the place of employment of each employee. The form shall show the name, address and Social Security number of each employee, the compensation of the employee during the preceding three-month period, the tax deducted from the employee, the political subdivisions imposing the tax upon the employee, the total compensation of all employees during the preceding calendar quarter, the total tax deducted from the employees and paid with the return and any other information prescribed by the DCED.
- E. Notwithstanding paragraph D. above, the provisions of this paragraph shall apply if an employer has more than one place of employment in more than one tax collection district. Within thirty (30) days following the last day of each month, the employer may file the return required by paragraph D. and pay the total amount of taxes deducted from employees in all work locations during the preceding month to the Tax Officer for either the tax collection district in which the employer's payroll operations are located or as determined by the DCED. The return and taxes deducted shall be filed and paid electronically. The employer must file a notice of intention to file combined returns and make combined payments with the Tax Officer for each place of employment at least one month before filing its first combined return or making its first combined payment. This paragraph shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.

- F. Any employer who, for two of the preceding four quarterly periods, has failed to deduct the proper tax, or any part of the tax, or has failed to pay over the proper amount of tax as required by paragraph C. above to the tax collection district, may be required by the Tax Officer to file returns and pay the tax monthly. In such cases, payments of tax shall be made to the Tax Officer on or before the last day of the month succeeding the month for which the tax was withheld.
- G. On or before February 28 of the succeeding year, every employer shall file with the Tax Officer where taxes have been deducted and remitted pursuant to paragraph C. above:
1. An annual return showing, for the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of compensation paid, the total amount of tax deducted, the total amount of tax paid to the Tax Officer and any other information prescribed by the DCED.
 2. An individual withholding statement, which may be integrated with the Federal Wage and Tax Statement (Form W-2), 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 address and Social Security number, the amount of compensation paid to the employee during the period, the amount of tax deducted, the amount of tax paid to the Tax Officer, the numerical code prescribed by the DCED representing the tax collection district where the payments required by paragraphs D. and E. above were remitted and any other information required by the DCED. Every employer shall furnish one copy of the individual withholding statement to the employee for whom it is filed.
- H. Any employer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after the discontinuance of business, file returns and withholding statements required under this section and pay the tax due.
- I. Except as otherwise provided in section 511 of the Local Tax Enabling Act (53 P.S. § 6924.511), an employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of taxes which the employer was required to withhold to the extent that the taxes have not been recovered from the employee. 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 for filing of declarations and returns.

Section 10. Taxpayers Obligations. Taxpayers shall declare and pay taxes as follows:

- A. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the tax officer for the place of taxpayer's residence, a final return showing the amount of taxable 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 on the taxable income, the amount of tax paid, the amount of tax that has been withheld and the balance of tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final return, the taxpayer shall pay to the tax officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
- B. Every taxpayer making net profits shall, by April 15 of the current year, make and file with the tax officer for the place of taxpayer's residence a declaration of the taxpayer's estimated net profits during the period beginning January 1 and ending December 31 of the current year, and shall pay to the tax officer in four equal quarterly installments the tax due on the estimated net profits. The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.
- C. Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the tax officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.
- D. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the tax officer for the place of taxpayer's residence a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due on the net profits and the total amount of tax paid. At the time of filing the final return, the taxpayer shall pay to the tax 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 the estimated tax, elect to make and file with the resident tax officer on or before January 31 of the succeeding year, the final return.
- E. The DCED, in consultation with the Department of Revenue, shall provide by regulation for the 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 required under this subsection anticipates additional net profits not previously declared or has overestimated anticipated net profits.

- F. Every taxpayer who discontinues business prior to December 31 of the current year, shall, within thirty (30) days after the discontinuance of business, file a final return as required under this paragraph and pay the tax due.
- G. Every taxpayer who receives any other taxable income not subject to withholding under the Local Tax Enabling Act shall make and file with the tax officer for the place of taxpayer's residence a quarterly return on or before April 15 of the current year, June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, setting forth the aggregate amount of taxable income not subject to withholding by the taxpayer 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 tax, together with such other information as the department may require. Every taxpayer filing a return shall, at the time of filing the return, pay to the tax officer the amount of tax due. The department shall establish criteria under which the tax officer may waive the quarterly return and payment of the tax and permit a taxpayer to file the receipt of taxable income on the taxpayer's annual return and pay the income tax due on or before April 15 of the succeeding year.
- H. For a taxpayer whose fiscal year is not a calendar year, the tax officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar year taxpayer.

Section 11. Tax Officer Responsibilities. The Tax Officer appointed by the Tax Collection Committee is hereby authorized and directed to take such actions to collect and remit the Earned Income and Net Profits Tax hereby levied as are authorized by the Local Tax Enabling Act, as amended from time to time, and shall carry out those responsibilities in accordance with the requirements of the Local Tax Enabling Act.

Section 12. Actions of Tax Officer to Collect Unpaid Tax. The Tax Officer is hereby authorized to take any and all actions authorized by the Local Tax Enabling Act as amended from time to time, and as otherwise permitted by law to determine and to collect taxes owed.

Section 13. Interest and Penalties Against the Taxpayer.

- A. Except as provided in Section 13. B. below, if the tax is not paid when due, interest at the rate the taxpayer is required to pay to the Commonwealth under Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176), known as The Fiscal Code, on the amount of the tax, and an additional penalty of one percent (1%) of the amount of the unpaid tax for each month or fraction of a month during which the tax remains unpaid shall be added and collected but the amount shall not exceed fifteen percent (15%) in the aggregate. Where an action is brought for the recovery of the tax, the taxpayer liable for the tax shall, in addition, be liable for the costs of collection, interest and penalties.

- B. The Tax Officer, with the concurrence of the Tax Collection Committee, may abate interest or penalties that would otherwise be imposed for the nonreporting and underreporting of income tax liabilities or for the nonpayment of taxes previously imposed and due if the taxpayer voluntarily files delinquent returns and pays the taxes in full. The provisions of this paragraph shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under this Ordinance, or prevent the commencement or further prosecution of any proceedings by the proper authorities for violations of this Ordinance.

Section 14. Fines and Penalties for Taxpayer Violations.

- A. Any Taxpayer who fails, neglects or refuses to make any declaration or return required by this Ordinance, any employer who fails, neglects or refuses to register, keep or supply records or returns required by the LTEA or to pay the tax deducted from employees, or fails, neglects or refuses to deduct or withhold the tax from employees, any taxpayer or employer who refuses to permit the tax officer appointed by a tax collection committee or an employee or agent of the tax officer to examine books, records and papers, and any taxpayer or employer who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of income in order to avoid the payment of income taxes shall, upon conviction thereof, be sentenced to pay a fine of not more than \$2,500.00 for each offense and reasonable costs, and in default of the payment of said fine and costs, to imprisonment for not more than six (6) months.
- B. Any employer required under this Ordinance to collect, account for and distribute taxes who willfully fails to collect or truthfully account for and distribute taxes, commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding \$25,000.00 or to imprisonment not exceeding two years, or both.
- C. The penalties imposed under this subsection shall be in addition to any other costs and penalties imposed by this Ordinance.
- D. The failure of any person to obtain forms required for making the declaration or returns require by this Ordinance shall not excuse the person from making the declaration or return.

Section 15. 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 this political subdivision that this Ordinance would have been adopted without such unconstitutional, illegal, or invalid sentence, clause, or section included herein.

Section 16. Repeal. All ordinances and resolutions and parts of ordinances and resolutions inconsistent with this Ordinance are hereby repealed effective January 1, 2012, and all ordinances and resolutions previously adopted by or in effect in this political subdivision which purport to levy or assess a tax on earned income or net profits are hereby repealed and superseded by this Ordinance effective January 1, 2012, except that provisions relating to the reporting and collection of taxes imposed in tax years preceding 2012 shall, as applicable, remain in effect.

Section 17. Effective Date. This Ordinance shall be effective at the earliest possible time permitted in accordance with the applicable provisions of the laws governing this political subdivision and the tax hereby levied shall be effective for calendar year 2012 and each year thereafter.

ORDAINED AND ENACTED, by the Board of Supervisors of Sadsbury Township this
8th day of November, 2011.

ATTEST:

SADSBURY TOWNSHIP BOARD OF SUPERVISORS

By: Rose A. Murnan
Secretary

By: Kevin R. VanHorn
Chairman

By: Roy W. Whal
Supervisor

By: _____
Supervisor