

ORDINANCE

Providing for the assessment, levy and collection of a tax for general Township purposes, upon salaries, wages, commissions and other compensation earned or received (on and after January 1, 2003,) by residents of the Township of Cooper, and on salaries, wages, commissions and other compensation earned (on and after January 1,2003,) by non-residents of the Township of Cooper, for work done or services performed or rendered in the Township of Cooper, and on the net profits earned (on and after January 1, 2003,) of businesses, professions or other activities conducted by such residents, and on the net profits earned (on and after January 1,2003,) of businesses, professions or other activities conducted in the Township of Cooper by non-residents, requiring the filing of returns and the giving of information by employers and those subject to the said tax; imposing on employers the duty of collecting the tax at source; providing for the assessment, administration, collection and enforcement of the said tax; and imposing penalties.

Be it enacted and ordained by the Township of Cooper, by its Supervisors duly assembled and it is hereby enacted by authority of the same, that in pursuance of authority granted to Townships in the Commonwealth of Pennsylvania by an Act of Genera] Assembly approved the 25th day of June, 1947, P. L. 1145, as amended.

SECTION 1. Unless otherwise expressly stated, the following terms and words shall have, for the purpose of this Ordinance, the meaning herein indicated:-

- (a) The term “association” shall mean a partnership, owned by two or more persons.

- (b) The term “business” shall include any enterprise, activity, agency, profession, trust or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, agent, broker, co-partnership, association, or other entity.
- (c) The term “compensation earned” or “compensation paid” or “earnings” shall mean all I salaries, wages, commissions, bonuses, incentive payments, and/or other forms of compensation or remuneration in cash or in property, received by an individual and paid, directly or through an I agent, by an employer for services rendered.
- (d) The term “corporation” shall mean any corporation or joint stock association organized under the laws of the United States the Commonwealth of Pennsylvania, or any other State, territory or foreign county or dependency.
- (e) The term “employer” shall mean any individual, co partnership, association, I corporation, governmental body or unit or agency or any other entity, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.
- (f) The term “net profits” shall mean 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, and without deduction of taxes based on income.
- (g) The term “non-resident” shall mean an individual, co partnership, association or other I entity domiciled outside the Township of Cooper.
- (h) The term “person” shall include natural person, co partnership, association, firm or I fiduciary (except any corporation which is exempt

from this tax under the Act of Assembly 481, approved June 25, 1947, P. L. 1145, as amended). Whenever used in any clause 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) The term “resident” shall mean an individual, co partnership, association or other entity domiciled in the Township of Cooper.

- (j) The term “taxpayer” shall mean a person, whether an individual, co partnership, association or any other entity required hereunder to file a return on earnings or net profits or to pay a tax thereof. The singular shall include the plural and the masculine shall include the feminine and the neuter.

- (k) The term “Income Tax Administrator” shall be such person as may be empowered by said Supervisors to administer the provisions of this Ordinance.

- (l) The term “Danville Area Earned Income Tax Committee” shall be the joint committee established to administer the collection, administration and enforcement of the provisions of this Ordinance and similar Resolutions adopted by other municipalities of Montour County and Northumberland County, Pennsylvania, in participation with this Township.

SECTION 2. The following annual taxes are hereby imposed for general Township purposes:-

- (a) One per cent (1%) of all compensation earned or received on or after January 1, 2003, by residents.

- (b) One per cent (1%) of all compensation earned or received on or after January 1, 2003, by non-residents for work done or services rendered in the Township of Cooper.
- (c) One per cent (1%) of the net profits earned on or after January 1, 2003, of businesses, professions, and other activities engaged in or conducted by residents.
- (d) One per cent (1%) of the net profits earned on or after January 1, 2003, of businesses, professions and other activities engaged in or conducted in the Township of Cooper by non-residents.

The taxes levied under (a) and (b) of this section shall relate to and be imposed upon revenue or compensation paid by an employer or principal for or on his behalf to any person who is employed by or renders services to him. The taxes levied under (c) and (d) of this section shall relate to and be imposed upon the net profits of any business, profession, or enterprise carried on by any person or owner or proprietor, either individually or in association with some other person or persons.

Said tax shall first be levied, collected and paid with respect to the salaries, wages and commissions and other compensations earned from and after January 1, 2003, and with respect to the net profits of businesses, professions or other activities earned during that part of the calendar year 2003, beginning from and after January 1, 2003.

Provided, however, that where the fiscal year of a business, profession or other activity differs from the calendar year, the tax shall be applicable only to that part of the net profits for the fiscal year as shall be earned from and after January 1, 2003.

The above tax ends December 31, 2003, unless re-enacted.

SECTION 3.

- (a) Every taxpayer who can reasonably be expected to earn taxable net earnings not subject to collection at source, or finds that he has over-estimated his net profits or earnings, he may file an amended declaration with the Income Tax Administrator setting forth such relevant information as the Income Tax Administrator may require.

- (b) Every taxpayer who, during the taxable period, has earned taxable net profits or who has received taxable earnings, shall make and file with the Income Tax Administrator, on a form prescribed by the Income Tax Administrator, on or before the 15th day of the 4th month after the end of the taxable period, a final return showing all such net profits and earnings during the taxable period, the total amount of tax due thereon, the amount of the estimated tax paid under the provisions of this Section, the amount of the tax that has been withheld pursuant to the provisions of Section 4 of this Ordinance and the balance of the tax due.

- (c) When the taxpayer's return of net profits or net earnings is made on a calendar year basis or on a fiscal year basis, the final return for such portion of taxable period as shall come within such calendar or fiscal year, shall be made and filed with the Income Tax Administrator, on or before the 15th day of the 4th month after the end of such calendar or fiscal year.

- (d) The percentage of the total net profits of any calendar or fiscal year of a taxpayer beginning or ending within the taxable year to which the tax imposed by this Ordinance shall be applicable shall be equal to the same percentage of such total net profits as the number of days in any such year within such period bears to the total number of days in any such year.

- (e) 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.

(f) In the event of the death of taxpayer during the taxable period, his personal representative, or in the absence of a personal representative, his heirs as designated by the Pennsylvania Intestate Act of 1947, as amended, or as hereafter amended or supplemented, shall file his final return within ninety (90) days after the taxpayer's death and pay the tax due or demand refund in the case of over payment.

(g) In the event that this or a similar Earned Income Tax Ordinance shall not be re-enacted for a like taxable period immediately following the taxable period of this Ordinance, then every taxpayer shall file a final return on or before the 15th day of the 4th month following the end of the current taxable period.

(h) Declaration of estimated tax required by the preceding paragraphs shall not be required from individuals whose estimated gross income from farming for the taxable year is at least two-thirds (2/3) the total estimated gross income from all sources for the taxable year.

SECTION 4. Every employer within the Township of Cooper who employs one or more employees on a salary, wage, commission or other compensation, shall deduct at the time of the payment thereof, the tax imposed by this Ordinance on the earnings due to his employee, employees and within thirty (30) days after December 31, 2002, and within thirty (30) days after each quarter of a year thereafter, shall make and file a return with the Income Tax Administrator on a form prescribed by the Income Tax Administrator, setting forth the taxes so deducted and such other relevant information as the Income Tax Administrator may require, and shall pay to the Income Tax Administrator on behalf of the Township the amount of taxes so deducted.

On or before the 15th day of February of the years 2002 and 2003, every such employer shall make and file with the Income Tax Administrator on a form prescribed by the Income Tax Administrator;

- (1) A return similar to form W-3 of the Internal Revenue Service of the United States Treasury Department showing the total amount of the earnings of his employees during the portion of the preceding calendar year embraced within the taxable period, the total amount of the tax deducted and the total amount of tax paid to the Township.
- (2) A return for each employee similar to form W-2 of the Internal Revenue Service of the United States Treasury Department, showing the total amount of the employee's earnings during the portion of the preceding year embraced within the taxable period, and such other relevant information as the Income Tax Administrator may require. Such employer on or before February 15th of each of said years furnish a copy of such return to the employee named in the return.
- (3) Every employer who discontinues business prior to the close of the taxable year shall within thirty (30) days after the discontinuance of business, file the returns herein above required and pay the tax due. Where discontinuance of business is due to the death of the employer, his personal representative, or in the absence of a personal representative, his heirs, as designated by the Pennsylvania Intestate Act of 1947, as amended, or as hereafter amended or supplemented, shall within ninety (90) days after the death of the employer file his return and pay the tax due or demand refund in the case of overpayment.
- (4) 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 this Ordinance relating to the filing of declarations and returns.

- (5) If an employer makes a deduction of tax as required by this Section, the amount deducted shall constitute in the hands of such employer a trust fund held for the account of the Township as beneficial owner thereof and the employee from whose earnings such tax was deducted shall be deemed to have paid such tax.
- (6) The withholding of earnings and the payment and return thereof by the employer under the provisions of this Section shall not be required in respect to earnings of domestic servants, farm labor and casual labor not in the course of the employer's business. This paragraph shall not be construed to exempt such employees from the requirements of filing a declaration and a return of such earnings and the payment of tax thereon under the provisions of Section 6.

SECTION 5.

- (a) There is hereby established the Danville Area Earned Income Tax Committee which shall consist of representatives appointed according to separate agreement as to numbers from each participating municipal board, council or other executive and legislative board which has or which will adopt a similar Earned Income Tax Ordinance or Resolution in participation with the Township of Cooper, Montour County, Pennsylvania. In no event shall this committee exceed seven (7) members.
- (b) There is hereby delegated to the Danville Area Earned Income Tax Committee all of the powers of this Township permissible under the laws of the Commonwealth of Pennsylvania for the administration, collection and enforcement of the provisions of this Ordinance.

SECTION 6.

- (a) It shall be the duty of the Income Tax Administrator 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 Administrator shall account monthly to the Township the amount of money received by him and shall monthly pay over to the Township the money so received.
- (c) The Income Tax Administrator is hereby charged with the administration and enforcement of the provisions of this Ordinance and is hereby empowered, subject to approval by those responsible for his appointment and the Danville Area Earned Income Tax Committee, to prescribe, adopt, promulgate and enforce 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 declarations and of returns and of payments alleged or found to be incorrect, or as to which an over-payment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this Ordinance.
- (d) The Income Tax Administrator, 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 Administrator or to any agent so designated by him the means, facilities and opportunity for such examination and investigations as are hereby authorized.
- (e) Any information gained by the Income Tax Administrator, his agents, or by any other official, agent or employee of the Township 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 official use in connection with the administration or enforcement of this Ordinance or as otherwise provided by law.

- (f) Any person aggrieved by any action of the Income Tax Administrator shall have the right to appeal as provided by law.

SECTION 7.

- (a) The Income Tax Administrator may sue in the name of the Township 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 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 causes:-

- (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 provision of this Ordinance and has failed to pay the amounts so deducted to the Township.

SECTION 8.

- (a) 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 for one-half of one per cent (.005%) 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.
- (b) Should any amount of the tax not be paid by a taxpayer when due, because of his negligence or intentional disregard of the provisions of this Ordinance, and the rules and regulations thereunder, without the intent to defraud, then in that event the Income Tax Administrator shall assess and collect five per centum (5%) of the deficiency as an added penalty.
- (c) Should any amount of tax not be paid by a taxpayer when due, because of fraud of the taxpayer, then in that event fifty (50%) per centum of the deficiency shall be assessed and collected by the Income Tax Administrator as a penalty; provided, however, that should a penalty be imposed hereunder for fraud, no penalty for failure to file a return shall be imposed for the same deficiency.
- (d) In case of any failure to make and file a return required by this Ordinance, within the time prescribed by this Ordinance, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the tax: Five (5%) per centum if the failure is for not more than thirty (30) days with an additional five (5%) per centum for each additional thirty (30) days or fraction thereof during which such failure continues, not exceeding twenty-five (25%) per centum in the aggregate. The amount so added to any tax shall be collected at the same time and in the same manner as part of the tax, unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be

collected in the same manner as the tax.

SECTION 9. The Income Tax Administrator 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 10. The tax imposed by this Ordinance shall not apply:--

- (a) To any person as to whom it is beyond the legal power of the Township to impose the tax herein provided for under the Constitution and Laws of the Commonwealth of Pennsylvania.
- (b) To any institution or organization operated for public, religious, education, or charitable purposes, to any institution or organization not organized or operated for private profit or to a trust or a foundation established for any of the said purposes.
- (c) To the net profits of any corporation which is subject to the Pennsylvania Corporate Net Income Tax or exempt from the Pennsylvania Corporate Net Income Tax, and any foreign corporation which is subject to the Pennsylvania Franchise Tax or exempt from the Pennsylvania Franchise Tax.

This section shall not be construed to exempt any person who is an employer from the duty of collecting the tax at source from his employees, and paying the amount collected to the Township under the provisions of Section 4 of this Ordinance.

SECTION 11.

- (a) Any person who fails, neglects, or refuses to keep the necessary records and supply the information required by this Ordinance or the rules and regulations pertaining thereto, to make any declaration or return required by this Ordinance; any employer who fails, neglects or refuses to deduct and/or to pay the tax deducted from his employees; any person who refuses to permit the Income Tax Administrator 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 the payment of the whole or any part of the tax imposed by this Ordinance, shall upon conviction thereof in a summary proceeding before any alderman or justice of the peace, be sentenced to pay a fine of not less than Fifty (\$50.00) Dollars or more than Three Hundred (\$300.00) Dollars for each offense and costs, and in default of payment of said fine and costs to be imprisoned in the Montour County Jail for a period not exceeding ninety (90) days.
- (b) Any person who, except as permitted by the provisions of Section 6 Subsection (a) through (f), inclusive of this Ordinance, divulges any information which is confidential under the provisions of said subsection shall, upon conviction thereof in a summary proceeding before any alderman or justice of the peace, be sentenced to pay a fine of not less than Fifty (\$50.00) Dollars or more than Three Hundred (\$300.00) Dollars for each offense and costs, and in default of payment of said fine and costs, to be imprisoned in the Montour 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 12. 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 effect or impair any of the remaining provisions, sentences, clauses or sections of this Ordinance. It is hereby declared to be the intent of the Supervisors of Cooper Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause or section not been included hereon.

SECTION 13. This Ordinance shall go into effect January 1, 2003.

TOWNSHIP OF COOPER

BY:

Terry Heimbach

Wallace B. Mottern

Charles Stine Jr.

Attest:

John Birth Jr.