

TOWNSHIP OF CRANBERRY
ORDINANCE NO. 94-231

AN ORDINANCE OF THE TOWNSHIP OF
CRANBERRY AMENDING ARTICLE I
("EARNED INCOME TAX") AND ARTICLE IV ("BUSINESS
PRIVILEGE TAX AND MERCANTILE
TAX") OF CHAPTER 99 ("TAXATION")
OF THE CODE OF THE TOWNSHIP OF
CRANBERRY SO AS TO: PROVIDE FOR
CONSISTENT USE OF TERMS AND DEFINITIONS,
MAKE CHANGES TO DEFINITIONS AND ADD
NEW DEFINITIONS, AND CHANGE THE RATE OF EARNED
INCOME TAX IN SAID ARTICLE I;
INCREASE THE INTEREST DUE ON UNPAID BUSINESS
PRIVILEGE TAX AND MERCANTILE TAX AND INCREASE
THE PENALTY FOR VIOLATIONS OF SAID ARTICLE
IV; AND PROVIDING FOR SEVERABILITY AND THE
REPEAL OF ALL PRIOR, INCONSISTENT ORDINANCES.

WHEREAS, Chapter 99 ("Taxation") the Code of the Township of Cranberry provides for the imposition of certain taxes, including therein an Earned Income Tax and a Business Privilege Tax and Mercantile Tax in Articles I and IV, respectively, pursuant to authority granted to the Township under the Local Tax Enabling Act (Act 511 of 1965) 53 P.S. Section 6901 et seq.; and

WHEREAS, the Board of Supervisors of the Township of Cranberry finds and deems it to be in the best interest of the Township of Cranberry and its citizens and residents to amend said Articles I and IV of said Chapter 99 so as to provide for certain changes in definitions, consistency of language, tax rates, interest on unpaid tax, and penalties for violations of such Ordinance.

NOW THEREFORE, be it ORDAINED and ENACTED by the Board of Supervisors of the Township of Cranberry, County of Butler, and Commonwealth of Pennsylvania as follows:

SECTION 1: Existing Article I ("Earned Income Tax") of Chapter 99 ("Taxation") of the Code of the Township of Cranberry is deleted in its entirety and the following is substituted therefor:

ARTICLE I
Earned Income Tax

§ 99-1. Definitions.

- A. Definitions. Unless otherwise expressly stated, the following terms shall have, for the purpose of this Article, the meanings herein indicated, except where the context indicates or requires a different meaning:

ASSOCIATION - A partnership, limited partnership or any other form of unincorporated enterprise owned by two (2) or more persons.

BUSINESS - Any enterprise, activity, agency, profession, trust or unincorporated undertaking of any nature conducted for profit, whether by an individual, agent, broker, copartnership, association or other entity.

COLLECTOR OF TAXES - The elected Tax Collector of Cranberry Township or a person or entity of any kind duly appointed to collect taxes by the Board of Supervisors of the Cranberry Township pursuant to and under the authority of the Local Tax Enabling Act (Act 511), 53 P.S. § 6901, et seq.

CORPORATION - A corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory or foreign country or dependency.

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

voluntary fixed place of habitation of a person, 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.

EARNED INCOME - All salaries, wages, commissions, bonuses, incentive payments, gains of a person derived from his services or labor without the aid of capital, and/or other sums of compensation or remuneration in cash or in property received by an individual and paid directly or through an agent by an employer for services rendered, 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 of the United States nor any bonus or additional compensation paid by the United States or the Commonwealth of Pennsylvania or any other State for such service.

EMPLOYER - An individual, copartnership, association, corporation, governmental body or unit or agency or any other entity who or which employs one (1) 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 enterprise after provisions 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.

PERSON - Every natural person, corporation, copartnership, firm, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to association shall mean the partners or members thereof, and as applied to corporation, shall mean the officers thereof.

RESIDENT - An individual, corporation, copartnership, association or other entity domiciled in the Township of Cranberry, Butler County, Pennsylvania.

TAXABLE PERIOD - The calendar year, a fiscal year or a period less than twelve (12) months for which a return is required to be filed by a taxpayer.

TAXPAYER - A person, whether an individual, corporation, copartnership, association or any other entity, required hereunder to file a return of earned income or net profits or to pay a tax based thereon.

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

§ 99-2. Imposition of a tax.

- A. An excise tax for general revenue purposes of one percent (1%) per annum is hereby imposed upon:
- (1) Salaries, wages, commissions and other compensation and earned income on or after May 1, 1965, received by residents of the Township of Cranberry; and on
 - (2) The net profits earned on and after May 1, 1965, of businesses, professions or other activities conducted in the Township of Cranberry by residents of the Township of Cranberry.
- B. The taxes levied under Subsection A(1) of this section shall relate to and be imposed upon salaries, wages, commissions and other compensation and earned income paid by an employer or on his behalf to any person who is employed by or renders services to him.
- C. The taxes levied under Subsection A(2) of this section shall relate to and be imposed upon the net profits of any business, profession or enterprise carried on by any person as owner or proprietor either individually or in association with some other person or persons.
- D. Said tax shall first be levied, collected and paid with respect to the salaries, wages, commissions and other compensation and earned income and the net profits earned during the last half of the calendar year of 1965; provided, however, that where the fiscal year of a business, profession or other activity differs from the calendar year, the tax shall be applicable to the net profits of the fiscal year with respect to such portion thereof as was earned subsequent to May 1, 1965.

§ 99-3. Collector of Taxes.

- A. A suitable person shall be appointed to collect the tax imposed by this Article and shall be designated as the Collector of Taxes. Such person shall collect and receive all such taxes, shall furnish a receipt for their payment and shall keep a record showing the amount received for each taxpayer under this Article and the date of such receipt, and shall pay over to the Supervisors of Cranberry Township, Butler County, Pennsylvania, according to law, the amount of taxes collected in accordance with this Article and the rules and regulations prescribed and relating to the administration and enforcement of the provisions in this Article.
- B. The Collector of Taxes shall report monthly to the Board of Supervisors of Cranberry Township, Butler County, Pennsylvania, under oath or affirmation, the total moneys received by or through such person, and pay over to Cranberry Township, Butler County, Pennsylvania, according to law, the money then in the Collector's hands due the Township of Cranberry, Butler County, Pennsylvania.
- C. The Collector of Taxes shall receive such compensation as the Board of Supervisors of Cranberry Township shall according to law determine.
- D. The Collector of Taxes, with the approval of the Board of Supervisors of Cranberry Township, Butler County, Pennsylvania, is empowered to prescribe rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this Article, including provisions for the reexamination and correction of returns and payments. Such rules and regulations shall be inscribed in a book kept for that purpose by the Collector of Taxes and held open to the inspection of the public.
- E. The Collector of Taxes shall give such bond to the Township of Cranberry as the Board of Supervisors of Cranberry Township shall require, to be approved in such form as the Board of Supervisors shall direct, conditioned for the faithful performance of the duties of the Collector of Taxes.

§ 99-4. Return and payment of tax.

- A. Every person whose earned income or profits are subject to the tax imposed by this Article shall, on or before April 15 of each year, make and file a return with the

Collector of Taxes or any such person designated by the Board of Supervisors. Such return shall be filed on a form prescribed by the Collector of Taxes, furnished at the expense of the Township of Cranberry and obtainable from the Collector of Taxes. The first return shall be filed as above provided on or before April 15, 1965. All moneys due shall accompany the return.

- B. The information on such return shall include: the name and address of the taxpayer, his place of employment or business, the aggregate amount of salaries, wages, commissions and other compensation and earned income or net profits earned by him during the preceding half-year and subject to such tax, the amount of the tax due the Township of Cranberry under this Article, the amount of tax on salaries, wages, commissions and other compensation and earned income or net profits paid by such taxpayer during the period covered by such return to any other political subdivision of the Commonwealth of Pennsylvania, together with such other pertinent information as may be required; provided, however, that where a return is made for a fiscal year or any other period different from a calendar year, such return shall be made within seventy-five (75) days after the close of such fiscal year or other period; provided further that in any case where the sole income of any person subject to tax under this Article is in the form of earned income paid by an employer and where the entire tax due by such employee has been deducted by his employer and return thereof made to the Collector of Taxes, and such employee shall also be subject to a like tax imposed by any other political subdivision within this Commonwealth, such employee shall file a return with the Collector of Taxes, who is hereby authorized to refund to such employee any difference to which he shall be entitled under the provisions of Section 14 of the Local Tax Enabling Act (Act 511 of 1965), 53 P.S. § 6914.

§ 99-5. Collection at source.

- A. Every employer who employs one (1) or more persons within the Township of Cranberry, Butler County, Pennsylvania, on a salary, wage, commission or other compensation basis, shall deduct monthly or more frequently than monthly, at the time of payment of such compensation, etc., due by him to any employee subject to this tax, the tax of one percent (1%) of the amount of such compensation, etc., for such period. Such employer shall, within thirty (30) days next succeeding July 15, 1965, and within thirty (30) days next succeeding each quarterly period of a year thereafter,

make a return and pay over to the Collector of Taxes the amount of the tax so deducted.

- B. Such return shall be on a form prescribed by the Collector of Taxes, procured at the expense of the Township of Cranberry and obtainable from the Collector of Taxes.
 - C. Said return shall set forth the name and residence of each employee subject to this tax employed during all or part of the preceding quarterly period of the year, the total amount of such compensation, etc., earned by each employee during the preceding quarterly period of the half-year and any other pertinent information that may be required; provided, however, that the failure or omission by the employer, either residing within or without the Township of Cranberry, to deduct such taxes and to make such return to the Collector of Taxes or such other person as the Board of Supervisors of Cranberry Township may designate, shall not relieve an employee from the payment of such tax and from compliance with such regulations, with respect to making returns and payment thereof, as may be established under this Article.
 - D. Every taxpayer who is employed for a salary, wage, commission 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 Collector of Taxes quarterly returns and shall pay quarter-annually the amount of tax shown as due on such returns, all as provided in Section 13 III B(2) of The Local Tax Enabling Act (Act 511 of 1965).
- § 99-6. Enforcement; confidential nature of information.
- A. The Collector of Taxes is 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 return made, or if no return is made, to ascertain the amount of tax due by an person under this Article. Every such employer or supposed employer or taxpayer or supposed taxpayer is hereby directed and required to give the Collector of Taxes facilities and opportunity for such examination and investigations as are hereby authorized. The Collector of Taxes is hereby authorized to examine any person under oath concerning any such compensation, etc., which was or should have been returned for taxation, and to this end, may compel the production of books, papers and records and the attendance of all persons before such Collector of

Taxes, whether as parties or witnesses, who the Collector of Taxes believes to have knowledge of such salaries, wages, commissions or earned income or net profits earned.

- B. Any information gained by the Collector of Taxes or any other employee, agent or official of the Township of Cranberry, Butler County, Pennsylvania, as a result of any returns, investigation, hearings or verifications or any other proceedings, manner or means connected with the operation of this Article, shall be confidential, except for official purposes and except in accordance with proper judicial order or as otherwise provided by law. Any disclosure of any such information contrary to the provisions of this subsection shall constitute a violation of this Article, and any such person divulging such information, whether or not at the time of such divulgence holding any official capacity or office or being an employee or agent or in any other manner connected with the operation of this Article, shall, upon conviction, be fined not more than five hundred dollars (\$500.) and costs for each offense, and in default of payment of said fine and costs, be imprisoned for a period not exceeding thirty (30) days.

§ 99-7. Interest and penalty.

All taxes imposed by this Article remaining unpaid after they shall have become due shall bear interest in addition to the amount of the unpaid tax, at the rate of six percent (6%) per annum, and the person upon whom such taxes are imposed shall be further liable to a penalty of one-half percent (1/2%) of the amount of the unpaid tax for each month or fraction of a month for the first six (6) months of nonpayment.

§ 99-8. Collection of unpaid taxes.

All taxes imposed by this Article, together with all interest and penalties, shall be recoverable by the Township's solicitors as other debts of like amount are recoverable.

§ 99-9. Violations and penalties.

- A. Any person convicted before a District Magistrate having jurisdiction of violating any of the provisions or requirements of this Article, or of failing, neglecting or refusing to pay any tax, penalties or interest imposed under this Article, or of refusing to

permit the Collector of Taxes or such other person as may be authorized by law under this Article to examine his books, records and papers, or of knowingly making any incomplete, false or fraudulent returns, or attempting to do anything whatever to avoid payment of the whole or any part of the tax imposed under this Article, shall be subject to a fine or penalty not exceeding five hundred dollars (\$500.) for each offense and the cost of prosecution thereof, and in default of payment thereof, to undergo imprisonment in the county jail for a period of not exceeding thirty (30) days.

- B. Such fine or penalty shall be in addition to any penalty imposed by any other section of this Article. The failure of any employer or taxpayer to receive or procure a return shall not excuse him from making a return.

§ 99-10. Applicability.

This Article shall not apply to any person or property as to whom or which it is beyond the legal power to impose the tax or duties herein provided for by the Board of Supervisors of Cranberry Township, Butler County, Pennsylvania.

SECTION 2:

Existing Sections 99-29 and 993-31 of Article IV ("Business Privilege Tax and Mercantile Tax") of Chapter 99 ("Taxation") of the Code of the Township of Cranberry are hereby deleted in their entirety and the following are substituted therefor:

§ 99-29. Suit on collection; interest on unpaid tax.

- A. The Tax Collector may sue for the recovery of taxes due and unpaid under this Article in the name of the township. If for any reason the tax is not paid when due each year, interest at the rate of six percent (6%) on the amount of such tax and an additional penalty of one percent (1%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected.
- B. 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.

§ 99-31. Violations and penalties.

- A. Any person who makes any false or untrue statement of his return or refuses to permit inspection of the books, records or accounts of any business in his custody or control when such inspection is requested by the Tax Collector or his duly authorized representative, and any person who fails or refuses to file a return or procure a mercantile license as required by this Article or who fails to keep his license conspicuously posted at his place of business as required herein shall be guilty of a summary offense and shall be fined no more than three hundred dollars (\$300.) and costs for each offense and, upon failure to pay the fine and costs, may be imprisoned for not more than thirty (30) days.
- B. The failure of any person required to file a return to receive or procure the form on which the same is required to be filed shall not excuse him from making a return or from paying the tax.

SECTION 3:

All prior Ordinances of the Township of Cranberry that are inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4:

If a final decision of a court of competent jurisdiction holds any provision of this Ordinance, or the application any provision to any circumstances, to be illegal or unconstitutional, the other provisions of this Ordinance, or the application of such provisions to other circumstances, shall remain in full force and effect. The intention of the Township is that the provisions of this Ordinance shall be severable and that this Ordinance would have been adopted if any such illegal or unconstitutional provisions had not been included.

ORDAINED and ENACTED this 6th day of May, 1994.

ATTEST:

TOWNSHIP OF CRANBERRY



Township Manager/Secretary



Chairman, Board of Supervisors

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