

## ORDINANCE NO. 6

MONTGOMERY TOWNSHIP, INDIANA COUNTY, PENNSYLVANIA

AN ORDINANCE IMPOSING A TAX OF ONE-HALF OF ONE PERCENT (1/2%) FOR GENERAL REVENUE PURPOSES ON SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATION EARNED DURING THE PERIOD BEGINNING JULY 1, 1974, AND ENDING DECEMBER 31, 1974, BY RESIDENTS OF THE TOWNSHIP OF MONTGOMERY, AND ON SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED DURING THE PERIOD BEGINNING JULY 1, 1974, AND ENDING DECEMBER 31, 1974, BY NON-RESIDENTS OF MONTGOMERY TOWNSHIP AND ON THE NET PROFITS EARNED DURING THE PERIOD BEGINNING JULY 1, 1974, AND ENDING DECEMBER 31, 1974, OF BUSINESSES, PROFESSIONS, OR OTHER ACTIVITIES CONDUCTED BY RESIDENTS OF THE TOWNSHIP OF MONTGOMERY, AND ON THE NET PROFITS EARNED DURING THE PERIOD BEGINNING JULY 1, 1974, AND ENDING DECEMBER 31, 1974, OF BUSINESSES, PROFESSIONS, AND OTHER ACTIVITIES CONDUCTED IN THE TOWNSHIP OF MONTGOMERY BY NON-RESIDENTS; IMPOSING UPON EMPLOYERS THE DUTY OF COLLECTING THE TAX AT SOURCE AND PAYING THE SAME TO THE DULY APPOINTED EARNED INCOME TAX COLLECTOR OF THE TOWNSHIP OF MONTGOMERY; REQUIRING THE FILING OF RETURNS AND GIVING OF INFORMATION BY EMPLOYERS AND THOSE SUBJECT TO SAID TAX; CONFERRING AND IMPOSING POWERS AND DUTIES OF THE TAX COLLECTOR; AND IMPOSING PENALTIES.

BE IT ENACTED AND ORDAINED by the Supervisors of the Township of Montgomery, Indiana County, Pennsylvania, and it is hereby enacted by authority of the same, and by virtue of the authority granted by an Act of the General Assembly approved December 31, 1965, effective January 1, 1966, being known as the "Local Tax Enabling Act", and being Act No. 511 of 1965:

**SECTION 1. DEFINITIONS:** The following words and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this section, except where the context clearly indicates or requires a different meaning, or where otherwise provided by Act of Assembly:

- (a) "Association" – A partnership, limited partnership, or any other unincorporated group of two or more persons.
- (b) "Business" – An enterprise, activity, profession, or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association, or any other entity.
- (c) "Corporation" – A corporation of 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) "Current Year" – The calendar year for which the tax is levied, and the initial period beginning July 1, 1974, and ending December 31, 1974.
- (e) "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 place in which a man has voluntarily fixed the habitation of himself and his family, 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. In the case of businesses, or associations, the domicile in that place considered as the center of business affairs and the place where its functions are discharged.
- (f) "Earned income" – Salaries, wages, commissions, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered whether directly or through an agent, and whether in cash or in property; not including, however, wages or compensations paid to persons on active military service, periodic payments for sickness and disability or retirement or payments arising under workman's compensation acts, occupation disease acts and similar legislation or payments 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; payments commonly known as public assistance, or unemployment compensation payments made by any governmental agency or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs, including, but not limited to, programs covering hospitalization, sickness, disability or death, supplemental retirement.
- (g) "Income tax officer", "officer", or tax collector" – Person, public employee or private agency designated by the Montgomery Township Supervisors to collect and administer the tax on earned income and net profits.
- (h) "Employer" – A person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation.
- (i) "Net profits" – The net income from the operation of a business, profession, or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession or other activity, but without deduction of taxes based on income.

- (j) "Non-resident" – A person, partnership, association, or other entity domiciled outside the taxing district.
- (k) "Person or individual" – A natural person.
- (l) "Preceding year" – The calendar year before the current year.
- (m) "Resident" – A person, partnership, association, or other entity domiciled in the tax district.
- (n) "Succeeding year" – The calendar year following the current year.
- (o) "Taxpayer" – A person, partnership, association, or any other entity, domiciled hereunder to file a return of earned income or net profits, or to pay a tax thereon.

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

**SECTION 2. IMPOSITION OF TAX:** The tax levied under this Ordinance shall initially be applicable to earned income received and net profits earned during the period beginning on July 1, 1974, and ending December 31, 1974; and the tax shall continue in force thereafter on a calendar year basis, without annual re-enactment unless the rate of tax is subsequently changed.

A tax for general revenue purposes of one-half of one percent (1/2%) is hereby imposed upon the earned income and net profits of residents of the Township of Montgomery, and a tax for general revenue purposes of one-half of one percent (1/2%) is hereby imposed upon the earned income and net profits of non-residents of the Township of Montgomery for work done or services rendered in the Township of Montgomery.

**SECTION 3. RETURNS AND PAYMENT OF TAX:** Every taxpayer whose earnings or profits are subject to the tax imposed by this Ordinance, but whose taxes, in whole or in part, are not subject to withholding or deduction under the provisions of this Ordinance shall make and file with the tax collector on a form or forms furnished by or obtainable from him, a return on the dates specified in this section, and pay to him the amount of tax shown to be due thereon for the period for which said return is made.

A return shall be made on or before October 31, 1974, showing earnings or net profits for the period beginning July 1, 1974, and ending September 30, 1974; and on January 31, 1975, showing earnings or net profits for the period beginning October 1, 1974, and ending December 31, 1974.

Every taxpayer whose earnings or profits are subject to the tax imposed by this Ordinance, shall, on or before April 15, 1975, make and file with the tax collector a final return showing the amount of net profits earned during the period beginning July 1, 1974, and ending December 31, 1974, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing, the final return, the taxpayer shall pay to the tax collector the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

Every taxpayer who discontinues business prior to December 31, 1974, shall, within thirty days after the discontinuance of business file his return as hereinabove required and pay the tax due.

Every taxpayer whose earnings shall be subject to the tax imposed by this Ordinance, shall, on or before April 15, 1975, make and file with the tax collector on a form prescribed or approved by the tax collector, a final return showing the amount of earned income received during the period beginning July 1, 1974, and ending December 31, 1974, the total amount to tax due thereon that has been withheld pursuant to the provisions relating to the collection at source, and the balance of the tax due, and shall at that time pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

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:

- (1) Make and file with the officer on a form prescribed or approved by the officer, an annual return setting forth the aggregate amount of earned income not subject to withholding from him during the period beginning January 1, and ending December 31, of the current year, and such other information as the officer may require, and pay to the officer the amount of tax shown as due thereon on or before April 15, of the succeeding year; or
- (2) Make and file with the officer on a form prescribed or approved by the officer, a quarterly return on or before April 30, of the current year, July 31, of the current year, October 31, of the current year, and January 31, of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the three-month period 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 the tax, together with such other required information as the officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the officer the amount of tax shown to be due thereon.

**SECTION 4. COLLECTION AT SOURCE:** Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction

imposing a tax on earned income or net profits within the Township of Montgomery 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 days after becoming an employer, register with the tax collector or officer, his name and address and such other information as the tax collector or office may require.

Every employer having an office, factory, workshop, branch, warehouse or other place of business within the Township of Montgomery, who employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof, the tax imposed by this Ordinance on the earned income due to his employee or employees, and shall, on or before October 31, 1974,m and January 31, 1975, file a return and pay to the tax collector or collecting officer the amount of taxes deducted during the preceding three-month periods ending September 30, 1974m and December 31, 1974, respectively. Such return unless otherwise agreed upon between the officer or tax collector and the employer shall show the name and social security number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee the total earned income of all such employees during the preceding three-month period, and the total tax deducted therefrom and paid with the return.

Any employer who for two of the preceding quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the Township of Montgomery may be required by the officer or tax collector to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the tax collector or officer on or before the last of the month succeeding the month for which the tax was withheld.

On or before February 28, 1975, every employer shall file with the officer or tax collector:

- (1) An annual return showing the tax amount of earned income paid, the total amount of tax deducted, and the total amount of tax paid to the officer or tax collector of the period beginning July 1, 1974, and ending December 31, 1974.
- (2) A return withholding statement for each employee employed during all or any part of the period beginning July 1, 1974 and ending December 31, 1974, setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted from such employee, the amount of tax paid to the officer or tax collector. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

- (a) Every employer having an office, factory, workshop, branch, warehouse, or other place of business, within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall deduct at the time of payment thereof, from the tax imposed by this Ordinance on the earned income due to his employee or employees, and shall, on or before April 30, of the current year, July 31, of the current year, October 31, of the current year, and January 31, of the succeeding year, file a return and pay to the officer the amount of taxes deducted during the preceding 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. Such return, unless otherwise agreed upon between the officer and the employer, shall show the name and social security number of each employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total earned income of all such employees during such preceding three-month period, and the total tax deducted therefrom and paid with the return.
- (b) On or before February 28, of the succeeding year, every employer shall file with the officer:
- (1) An annual return showing the total amount of earned income paid, the total amount of tax deducted, and the total amount of tax paid to the officer for the period beginning January 1, of the current year, and ending December 31, of the current year.
  - (2) A return withholding statement 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 employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, the amount of tax paid to the officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

Every employer who discontinues business prior to December 31, 1974 shall, within thirty days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

Except as otherwise provided herein, every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.

The failure or omission of any employer to make the deductions required by this Ordinance shall not relieve any employee from the payment of the tax or from complying with the requirements of the Ordinance relating to the filing of declarations and returns.

#### **SECTION 5. POWERS AND DUTIES OF OFFICER OR TAX COLLECTOR:**

It shall be the duty of the tax collector to collect and receive the taxes, fines and penalties imposed by this Ordinance. It shall be the duty of the tax officer or tax collector to keep a record showing the amount received by them for each person or business paying the tax and the date of such receipt.

The tax collector, shall, before entering upon his official duties, give and acknowledge a bond to the Township of Montgomery. Each such bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of this Commonwealth, and shall comply with the provisions of law.

The officer and agents designated by him are or is hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person to whom the officer reasonably believes to be an employer of the taxpayer, or of the taxpayer, in order to verify the accuracy of any declaration of or return, or if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the officer reasonably believes to be an employer or taxpayer, is hereby directed and required to give to the officer, or to any agent designated by him, the means, facilities and opportunity for such examination and investigations, as are hereby authorized.

- (a) The officer charged with the administration and enforcement of the provisions of this Ordinance is hereby employed and empowered 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 returns and of payments alleged to be or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in cases of overpayment, for any period of time not to exceed six years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of this Ordinance. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution of the governing body. A copy of such rules and regulation currently in force shall be available for public inspection.

- (b) The tax collector shall refund from current undistributed revenue, on petition of, and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.
- (c) Any information gained by the officer, his agents, or by any other official or agent of the taxing district, 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, as otherwise provided by law.
- (d) The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

**SECTION 6.** The Pennsylvania Municipal Service Company is herewith appointed the Earned Income Tax Collector.

**SECTION 7. SUIT FOR COLLECTON OF TAX:** The officer may sue in the name of the Township of Montgomery for the recovery of taxes due and unpaid under this Ordinance.

**SECTION 8. INTEREST AND PENALTIES:** If for any reason the tax is not paid when due, interest at the rate of six percent (6%) per annum on the amount of said tax, and an additional penalty of one-half of one percent 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 therefor, shall, in addition, be liable for the costs of collection and interest and penalties imposed herein.

**SECTION 9. FINES AND PENALTIES:** Any person who fails, neglects or refuses to make any declaration or return required by this Ordinance, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the officer or any agent designated by him to examine his books, record 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 earned income in order to avoid the payment of the whole or any part of the tax imposed by this Ordinance shall, upon conviction before any justice of the peace, alderman or magistrate, r court of competent jurisdiction in the county, be sentenced to pay a fine of not more than FIVE HUNDRED DOLLARS (\$500.00) for each offense, and cost, and in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty days.



**SECTION 10. CONSTRUCTION:** Any provisions of the said Act No. 511 of the General Assembly of the Commonwealth of Pennsylvania, not herein enumerated, shall, nevertheless, be incorporated as a part of this Ordinance by reference. If any sentence, clause or sections or parts 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, or parts of this Ordinance. It is hereby declared as the intent of the Supervisors of the Township of Montgomery that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or any part hereof had not been included herein.

**SECTION 11.:** The tax imposed by this Ordinance shall be in addition to all other taxes levied or imposed by the Township of Montgomery, Indiana County, Pennsylvania.

**SECTION 12. REPEALS:** Any Ordinance or part of any Ordinance conflicting with this Ordinance is hereby repealed insofar as the same affects this Ordinance.

**SECTION 13. EFFECTIVE DATE:** This Ordinance shall become effective July 1, 1974, and shall be regarded as a continuing tax and will not be reenacted or readvertised on an annual basis hereafter, although it will be effectual on a calendar year basis, beginning January 1, 1975, and continuing thereafter.

BE IT ORDAINED AND ENACTED THIS **5<sup>TH</sup> DAY OF APRIL, 1974**, by the Supervisors of the Township of Montgomery.

Gordon Snyder  
Supervisor

Jack R. Henry  
Supervisor

Charles Mattis  
Supervisor