

Earned Income and Net Profits Tax (EIT) Model Ordinance

1. Purpose:

- a. CENTAX recommends that all TCC political subdivisions adopt a new EIT ordinance which encompasses and incorporates the provisions of ACT 32.
- b. Model ordinance should be adopted by all municipalities within the TCC that levy the EIT.

2. Maximum Rates:

- a. Under Act 32, the maximum rate for the EIT continues at 1% and, if a school district and the municipality in which the taxpayer resides both have the tax, the tax is split between the two.
- b. Under Act 32, school districts do not have the authority to levy EIT against nonresidents.

3. Exemptions:

- a. It is optional whether to exempt certain taxpayers based on income. Act 32 places the maximum income to be exempted at \$12,000.00 and does not allow for an exemption based on age, etc.

4. Timeline:

- a. Adoption - The EIT Ordinance should be adopted and forwarded to the TCC no later than November 15, 2011.
- b. Notice –
 - i. Pursuant to Act 32, prior to the passage of this ordinance, notice shall be given of the intention to pass such ordinance. Publication of such notice shall be made by advertisement once a week for three weeks in a newspaper of general circulation.
 - ii. Therefore, it is suggested the notice of intention to adopt by advertised in September 2011 to enable municipalities to adopt the ordinance in October 2011.

ORDINANCE NO. _____
EARNED INCOME AND NET PROFITS TAX (EIT) ORDINANCE
[Borough/Township/City], _____ COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF _____ [Borough/
Township/City] _____ COUNTY, PENNSYLVANIA, LEVYING A TAX
ON EARNED INCOME AND NET PROFITS; REQUIRING TAX RETURNS; REQUIRING
EMPLOYERS TO WITHHOLD AND REMIT TAX; AND RELATED PROVISIONS.

ENACTED, by the Borough/Township/City of _____,
County, Pennsylvania under authority of the Local Tax Enabling Act, 53 P.S. § 6924.101 et seq., and
other applicable law, as follows:

SECTION 1. DEFINITIONS

All terms defined in the Local Tax Enabling Act, 53.P.S. § 6924.101 et seq. shall have the meanings
set forth therein.

SECTION 2. EXEMPTIONS [Optional Additional Language]

- a. *Under the Local Tax enabling Act, 53 P.S. §6924.301.1 each local taxing authority may, by ordinance or resolution, exempt any person whose total income from all sources is less than twelve thousand dollars (\$12,000) per annum from earned income tax, or any portion thereof, and may adopt regulations for the processing of claims for exemptions.*
- b. *Therefore, any individual earning a total income of less than _____ (insert here determined amount set at Twelve Thousand and no/100 (\$12,000.00) Dollars or less) shall be exempt from the Earned Income Tax.*
- c. *Any non-resident who is otherwise subject to the Earned Income Tax of _____ Borough/Township/City is hereby exempt from the imposition, collection and payment of this tax, provided that the domicile of the non-resident taxpayer provides a life exemption from the imposition, collection and payment of an Earned Income and Net Profit Tax to any resident of _____ [Borough/Township/City], _____ County, Pennsylvania, who would otherwise be subject to an Earned Income and Net Profit Tax in the domicile of that non-resident who is subject to this taxation of this [Borough/Township/City].*

SECTION 3. IMPOSITION OF TAX

- a. **General Purpose Resident Tax.** The Taxing Authority hereby imposes a Tax for general revenue purposes at the rate of one percent (1%) on earned income and net profits of residents of the Taxing Authority.
- b. **General Purpose Nonresident Tax.** The Taxing Authority also imposes a Tax for general revenue purposes at the rate of one percent (1%) on earned income and net profits derived by an individual who is not a resident of the Taxing Authority, from any work, business, profession, or activity, of any kind engaged in within the boundaries of the Taxing Authority.

- c. Ongoing Tax. The Tax shall continue at the above rates during the current Tax Year and each Tax Year thereafter, without annual re-enactment, until this Ordinance is repealed or the rate is changed.
- d. Local Tax enabling Act Applicable. The Tax is imposed under authority of the Local Tax Enabling Act, and all provisions thereof that relate to a tax on earned income or net profits are incorporated into this Ordinance. Any future amendments to the Local Tax Enabling Act that are required to be applied to a tax on earned income or net profits will 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 allowed by 1 Pa.C.S.A. § 1937.
- e. Applicable Laws, Regulations, Policies, and Procedures. The Tax shall be collected and administered in accordance with: (1) all applicable laws and regulations; and (2) policies and procedures adopted by the TCC or by the Collector. This includes any regulations, policies, and procedures adopted in the future to the maximum extent allowed by 1 Pa.C.S.A. § 1937.

SECTION 4. INDIVIDUAL TAX RETURNS AND PAYMENTS

Every resident receiving earned income or earning net profits in any Tax Year shall file Tax Returns and pay Tax in accordance with the Local Tax Enabling Act and this Ordinance.

SECTION 5. EMPLOYER WITHHOLDING, REMITTANCE, AND TAX RETURNS

Every employer shall register, withhold, and remit Tax, and file Tax Returns in accordance with the Local Tax enabling Act and this Ordinance.

SECTION 6. TAX OFFICER

The Tax will be collected from residents and employers by the Tax Officer as appointed by the [COUNTY] Tax Collection Committee.

SECTION 7. INTEREST, PENALTIES, COSTS, AND FINES

Residents and employers are subject to interest, penalties, costs, and fines in accordance with the Local Tax Enabling Act, including costs imposed by the Tax Officer in accordance with authorization by the TCC having jurisdiction.

SECTION 8. SEVERABILITY

The provisions of this Ordinance are severable and if any of its provisions are ruled by a court invalid or unconstitutional, such decision shall not affect or impair any of the remaining provisions of this Ordinance. It is declared to be the intention of the Borough/Township/City that this Ordinance would have been adopted if such invalid or unconstitutional provision had not been included.

SECTION 9. PURPOSE/REPEAL

- a. *Purpose of Ordinance.* The primary purpose of this Ordinance is to conform the earned income and net profits tax currently imposed by the Taxing Authority to the Local Tax

Enabling Act, as amended and restated by Act 32 of 2008, and to do so within the time frame required by Act 32.

- b. **Repeal.** Any prior Ordinance imposing a tax on earned income or net profits of individuals is amended and restated in its entirety to read as stated in this Ordinance. Any other prior Ordinance or part of any prior Ordinance conflicting with the provisions of this Ordinance is rescinded insofar as the conflict exists. To the extent that this Ordinance is the same as any Ordinance in force immediately prior to adoption of this Ordinance, the provisions of this Ordinance are intended as a continuation of such prior Ordinance and not as a new Ordinance. If this Ordinance is declared invalid, any prior Ordinance levying a similar tax shall remain in full force and effect and shall not be affected by adoption of this Ordinance. If any part of this Ordinance is declared invalid, the similar part of any prior Ordinance levying a similar tax shall remain in effect and shall not be affected by adoption of this Ordinance. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish any offense under the authority of any Ordinance in force prior to adoption of this Ordinance. Subject to the foregoing provisions of this Section, this Ordinance shall amend and restate on the Effective Date any Ordinance levying a tax on earned income or net profits in force immediately prior to the Effective Date.

SECTION 10. EFFECTIVE DATE

The provisions of this Ordinance shall become effective on January 1, 2012.

DULY ENACTED AND ORDAINED this _____ day of _____ 2011, by the Board of Supervisors of _____ Borough/Township/City.

BOARD OF SUPERVISORS
_____ BOROUGH/TOWNSHIP/CITY

By: _____
By: _____