

**TOWNSHIP OF TOWAMENSING,
CARBON COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2011- 1

**AN ORDINANCE OF THE TOWNSHIP OF TOWAMENSING,
CARBON COUNTY, PENNSYLVANIA, RE-ENACTING,
RESTATING AND AMENDING ITS EARNED INCOME TAX
ORDINANCE TO ESTABLISH CONFORMITY WITH THE
LOCAL TAX ENABLING ACT AS AMENDED BY ACT 32 OF
JULY 2, 2008.**

WHEREAS, the Township of Towamensing, Carbon County, Pennsylvania (hereinafter referred to as the "Township") previously enacted an earned income tax ordinance (hereinafter the "Prior Ordinance"), imposing a tax at the rate of one (1%) percent for general revenue purposes on earned income; and

WHEREAS, on July 2, 2008, the Pennsylvania Legislature enacted Public Law 197, Act No. 32 (hereinafter "Act 32"), which Act 32, *inter alia*, provided for the consolidated collection of local income taxes within a tax collection district established in each county under Section 504 of Act 32 for tax years beginning not later than on and after January 1, 2012; and

WHEREAS, the Township desires to re-enact, restate and amend in its entirety the Prior Ordinance relating to the imposition and collection of an earned income tax by the Township of Towamensing in order to conform with the provisions of Act 32.

NOW, THEREFORE, the Township of Towamensing does hereby ordain that its Prior Ordinance is hereby re-enacted, restated and amended in its entirety to read as follows:

**SECTION 1
DEFINITIONS**

"Article XIII tax officer." The tax officer authorized by the Township to collect income taxes levied prior to January 1, 2012.

"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.

"Business entity." A sole proprietorship, corporation, joint-stock association or company, partnership, limited partnership, limited liability company, association, business trust, syndicate or other commercial or professional activity organized under the laws of this Commonwealth or any other jurisdiction.

“Certified public accountant” or “public accountant.” A certified public accountant, public accountant or firm, as provided for in the act of May 26, 1947 (P.L. 318, No. 140), known as the CPA Law.

“Claim.” A written demand for payment made by a tax officer or tax collection district for income taxes collected by another tax officer or tax collection district.

“Corporation.” A corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency. The term shall include an entity which is classified as a corporation for Federal income tax purposes.

“Current year.” The calendar year for which the tax is levied.

“Department.” The Department of Community and Economic Development of the Commonwealth.

“Domicile.” The place where a person lives and has a permanent home and to which the person has the intention of returning whenever 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 voluntarily 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 the person to adopt some other permanent home. In the case of a business, domicile is that place considered as the center of business affairs and the place where its functions are discharged.

“Earned income.” The compensation as required to be reported to or as determined by the Department of Revenue under Section 303 of the act of March 4, 1971 (P.L. 6, No. 2), 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.

“Earned income and net profits tax.” The tax levied by the Township on earned income and net profits.

“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 under this Ordinance, the term includes a corporate officer.

“Income tax.” Except as set forth in section 511(b) of the LTEA, an earned income and net profits tax, personal income tax or other tax that is assessed on the income of a taxpayer levied by the Township under the authority of this act or any other act.

“Joint tax collection committee.” An entity formed by two or more tax collection committees for the purpose of income tax collection in more than one tax collection district.

“LTEA.” The Pennsylvania Local Tax Enabling Act, P.L. 1257, 1965, as amended.

“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 of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section. The term does not include income under any of the following paragraphs:

(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 on the sale of farm machinery;
- (ii) any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes; or
- (iii) any gain on the sale of other capital assets of a farm.

“Nonresident.” A person or business domiciled outside the Township levying the tax.

“Nonresident tax.” An income tax levied by the Township on nonresidents.

“Official register.” The part of the tax register that includes withholding tax rates as provided in section 511(a)(3) of the LTEA.

“Person.” A natural person.

“Preceding year.” The calendar year before the current year.

“Private agency.” A business entity or person appointed as a tax officer by a tax collection committee.

