

Upon motion by Brian P. McGrath, seconded by Richard P. Figaski, the following Ordinance was duly enacted, 2 voting in favor of enactment, 0 voting against enactment.

ORDINANCE 2015-7

An Ordinance amending and restating Ordinance No. 67-20 as amended, imposing a tax for general revenue purposes on earned income and net profits; requiring the filing of returns and the giving of information by employers and those subject to said tax; imposing on employers the duty of collecting said tax at source; providing for the administration, collection and enforcement of said tax; imposing penalties for violation and including severability and repealer clauses.

WHEREAS, Ordinance 67-9, amended and restated by Ordinance 67-20, enacted effective July 1, 1968, as amended, had imposed a tax for general revenue purposes on salaries, wages, commissions, other compensation and net profits earned or conducted by residents and certain non-residents of the Township of Millcreek; and

WHEREAS, the Local Tax Enabling Act, which authorized imposition of said tax, has since been substantially amended, such amendments affecting definition of earned income subject to taxation, the manner of collection and other matters addressed in Ordinance 67-20; and

WHEREAS, the Board of Supervisors determines that it is necessary and appropriate to amend and restate regulations pertaining to imposition and collection of the earned income tax so as to address changes in statutory provisions.

IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Millcreek, Erie County, Pennsylvania, and it is ordained and enacted, as follows:

1.01 Enabling Authority. This Ordinance is enacted pursuant to the authority of the Local Tax Enabling Act, 53 P.S. § 6924.101, et seq., as the same may be amended in the future.

1.02 Definitions.

1.02.1 Statutory Definitions. The definitions of terms as set forth in the Local Tax Enabling Act, 53 P.S. § 6924.501 (the "Act"), as the same may in the future be amended, are hereby adopted and incorporated herein by reference.

1.02.2 Undefined Terms. Where not defined in this Ordinance or in the statute and ordinances referenced in Section 2.02 or in other applicable Pennsylvania statutes or Township ordinances, terms shall be given their common or ordinary meaning.

1.02.3 Usage. The singular shall include the plural. The masculine shall include the feminine and the neuter.

1.03 Imposition of Tax. A tax of one percent (1%) for general revenue purposes is hereby imposed on Earned Income and Net Profits earned by residents and non-residents of the Township of Millcreek (“Township”).

1.03.1 Application. The said Earned Income and Net Profits tax shall be applicable to and is imposed upon earned income and net profits earned during the period beginning January 1 of the current year and ending December 31 of the current year. The Earned Income and Net Profits tax shall continue in force on a calendar year or taxpayer fiscal year basis without the need for annual enactment or reenactment, unless the rate of the tax is subsequently changed.

1.03.2 Imposition and Collection.

(i) The tax is imposed on Earned Income and on Net Profits earned by those persons and Business Entities domiciled in Millcreek Township and on Earned Income earned by those persons and Business Entities not domiciled in Millcreek Township but paid for work done or services performed or rendered in Millcreek Township.

(ii) The taxes levied on Earned Income shall relate to and be imposed and collected upon Earned Income paid by or on behalf of the employer to any person who is employed by or renders services to the employer. The taxes levied on Net Profits shall related to and be imposed, levied and collected on the Net Profits of any Business carried on by any person or Business Entity(ies).

1.03.3 Calendar Year. For a taxpayer whose fiscal year is a calendar year, the tax shall be applicable to taxable income earned or received based on the method of accounting used by the taxpayer in the period beginning January 1 of the current year and ending December 31 of the current year; provided, that taxes imposed for the first time and changes to existing rates shall become effective on January 1 or July 1, as specified in this article, and the tax shall continue in force on a calendar year basis, without annual reenactment, unless the rate of the tax is subsequently changed.

1.03.4 Taxpayer Fiscal Year. For a taxpayer whose fiscal year is not a calendar year, the Tax Officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those allowed for calendar year taxpayers.

1.03.5 Partial Domicile. The taxable income subject to tax of a taxpayer who is domiciled in Millcreek Township for only a portion of the tax year shall be determined as provided in the Act, 53 P.S. § 6924.502, as the same may in the future be amended and restated.

1.04 Interest and Penalties. If any tax to be remitted or paid under this article is not remitted or paid by the date(s) set forth therefor, interest shall accrue on unpaid tax and late payment penalties shall be imposed at the rates specified under 53 P.S. § 6924.509 and 72 P.S. § 806 as the same may in the future be amended or restated.


1.05 Reference to Controlling Provisions of the LTEA. Provisions in the Act pertaining to Declaration and Payment of Tax, Tax Collection Districts, the Tax Officer, Powers and Duties of the Tax Officer, Withholding and Remittance of Tax, Distribution of Taxes, Confidentiality and other matters 53 P.S. §§ 6924.501-514, as the same may in the future be amended and/or restated, shall govern and are incorporated herein by reference.

1.06 Penalties for Violation. Any person or Business Entity who or which fails or refuses to make any return, report or remittance required by this Ordinance and/or the Act, and/or who refuses to permit the Tax Officer or the Tax Officer's agent or employee to examine his, her or its books, records and papers, and/or who knowingly makes any incomplete, false or fraudulent return, and/or who avoids or attempts to avoid full disclosure of the amount of Earned Income and/or Net Profits to avoid the payment of the whole or any part of the tax, upon determination of violation in a civil enforcement proceeding before a Magisterial District Judge or other Court having jurisdiction, shall be subject to a fine in a sum not less than \$250.00 and not more than \$500.00 for each violation. The failure of any employer or any taxpayer to receive or procure a return form shall not excuse him, her or it from making a return. Enforcement shall be in accordance with the Ordinance Enforcement Ordinance. Each day a violation continues shall constitute a separate offense. Fines for violation shall be paid over to the Millcreek Township Treasurer and shall be in addition to interest, late payment penalties and other penalties under the Act.

1.07 Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person, property or circumstances is for any reason held invalid or unconstitutional by any court, such holding shall not be construed to affect the validity of any of the remaining provisions of this Ordinance or its application, for such portion shall be deemed as a separate, distinct and independent provision from the remaining provisions which shall be and remain in full force and effect. It is hereby declared the legislative intent that this Ordinance would have been adopted had such valid or unconstitutional provision of its application not been included herein.

1.08 Repealor. All Ordinances or parts of any Ordinances inconsistent herewith are hereby repealed. This Ordinance constitutes an amendment and restatement of regulations governing taxation on earned income and net profits and Ordinances 67-9 and 67-20 are expressly repealed and superseded by this Ordinance.

BE IT ENACTED this 12th day of May, 2015.


Richard P. Figaski, Secretary