

ORDINANCE NO. 34

AN ORDINANCE PROVIDING FOR THE LEVY, ASSESSMENT AND COLLECTION OF A TAX FOR GENERAL REVENUE PURPOSES FOR THE YEAR ONE THOUSAND NINE HUNDRED SEVENTY-SEVEN AND ANNUALLY THEREAFTER, UNDER THE AUTHORITY OF THE LOCAL TAX ENABLING ACT, UPON SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED DURING THE PERIOD BEGINNING JANUARY 1, AND ENDING DECEMBER 31, BY RESIDENTS OF THE TOWNSHIP OF HAYCOCK, AND ON THE NET PROFITS EARNED DURING THE SAME PERIOD, OF BUSINESSES, PROFESSIONS AND OTHER ACTIVITIES CONDUCTED BY SUCH RESIDENTS; AND ON THE SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY OR PAID TO ALL OTHER PERSONS EMPLOYED IN SAID TOWNSHIP OF HAYCOCK DURING THE SAME PERIOD, AND ON THE NET PROFIT EARNED BY ALL OTHER PERSONS DERIVED FROM BUSINESSES, PROFESSIONS AND OTHER ACTIVITIES CONDUCTED IN SAID TOWNSHIP OF HAYCOCK DURING THE SAME PERIOD; PROVIDING FOR THE FILING OF DECLARATIONS, QUARTERLY RETURNS AND FINAL RETURNS; REQUIRING EMPLOYERS TO REGISTER AND TO DEDUCT THE TAX FROM THEIR EMPLOYEES' WAGES AND TO FILE RETURNS AND PAY THE TAX; MAKING AN EMPLOYER WHO WILFULLY OR NEGLIGENTLY FAILS OR OMITTS TO MAKE THE DEDUCTIONS LIABLE FOR PAYMENT OF THE TAX; SETTING FORTH THE DUTIES OF THE INCOME TAX OFFICER, PROVIDING FOR THE BONDING OF THE OFFICER, FOR HIS COMPENSATION, AND AUTHORIZING HIM TO SUE; PROVIDING FOR INTEREST AND PENALTIES FOR LATE PAYMENT; PROVIDING FINES AND PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR SEVERABILITY OF ITS TERMS; AND REPEALING A PRIOR ORDINANCE.

WHEREAS, it is necessary in the judgment of the Board of Supervisors of Haycock Township, Bucks County, State of Pennsylvania, to impose a tax on the salaries, wages, commissions and compensation earned by residents and on the net profits earned of businesses, professions and other activities conducted by residents and on the salaries, wages, commissions and other compensation earned by or paid to all other persons employed in the said Haycock Township for general revenue purposes, occasioned by increased Township costs and operating expenses; and

WHEREAS, it is estimated that the revenue to be derived from this tax will amount to Thirty Thousand (\$30,000.00) Dollars annually.

IT IS HEREBY ORDAINED by the Board of Supervisors of Haycock Township, under the authority of The Local Tax Enabling Act as follows:

ARTICLE I - GENERAL PROVISIONS

SECTION I. Definitions: The following words and phrases when used in this Ordinance shall have the meanings ascribed to them in this Section, except where the context indicates a different meaning:

(a) "Association" shall mean a partnership, limited partnership, or any other unincorporated group of two or more persons.

(b) "Business" shall mean any 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) "Compensation" shall mean earned income as herein defined.

(d) "Corporation" shall mean a corporation or joint stock association organized under the laws of the United States of America, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency.

(e) "Current year" shall mean the calendar year for which the tax is levied.

(f) "Domicile" shall mean 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 is that place considered as the center of business affairs and the place where its functions are discharged.

(g) "Earned Income" shall mean salaries, wages, commissions, bonuses, 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 compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement or payments arising under Workmen's Compensation Acts, occupational 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 or 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 unemployment benefits, strike benefits, social security and retirement.

(h) "Employer" shall mean 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) "Income tax officer or officer" shall mean a person, public employee or private agency designated by the Board of Supervisors of Haycock Township to collect and administer the tax on earned income and net profits.

(j) "Net profits" shall mean the net income from 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.

(k) "Nonresident" shall mean a person, partnership, association or other entity domiciled outside the Township of Haycock.

(l) "Person or individual" shall mean a natural person.

(m) "Preceding year" shall mean the calendar year before the current year.

(n) "Resident" shall mean a person, partnership, association or other entity domiciled in the Township of Haycock.

(o) "Succeeding year" shall mean the calendar year following the current year.

(p) "Taxpayer" shall mean a person, partnership, association or any other entity required hereunder to file a return of earned income or net profits, or to pay a tax thereon.

(q) "Township" shall mean the Township of Haycock, County of Bucks and State of Pennsylvania.

In this ordinance, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

ARTICLE II. IMPOSITION AND RATE OF TAX

The following taxes are hereby imposed for general revenue purposes, under the authority of the Local Tax Enabling Act for the year 1977 and annually thereafter:

(a) One percent (1%) of all earned income received in the period beginning January 1 and ending December 31 of the current year by residents of the Township.

(b) One percent (1%) of all net profits earned in the period beginning January 1 and ending December 31 of the current year of businesses, professions and other activity conducted by residents of the Township.

(c) One percent (1%) of all earned income received in the period beginning January 1 and ending December 31 of the current year by all other persons employed in the Township.

(d) One percent (1%) of all net profits earned in the period beginning January 1 and ending December 31 of the current year of businesses, professions and other activity conducted by all other persons in the Township.

ARTICLE III. DECLARATIONS, PAYMENT OF TAX AND RETURNS

(a) Every taxpayer who anticipates net profits shall on or before April 15, of the current year make and file with the Income Tax Officer on a form prescribed or approved by the officer, a declaration of his estimated net profits during the period beginning January 1 and ending December 31, of the current year, and pay to the officer in four equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration, and the other installments on or before June 15 and September 15 of the current year, and January 15 of the succeeding year, respectively.

(b) Any taxpayer who first anticipates any net profit after April 15, of the current year, shall make and file the declaration hereinabove required on or before June 15, of the current year, September 15 of the current year, or December 31, of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.

(c) Every taxpayer, earning net profits in the current year, shall on or before April 15 of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of net profits earned during the period beginning January 1 and ending December 31 of the current year, 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 officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the officer on or before January 31, of the succeeding year, the final return as hereinabove required.

(d) Every taxpayer who discontinues business prior to December 31, of the current year, shall, within thirty (30) days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

(e) Every taxpayer who is employed for a salary, wage, commission, or other compensation and who received any earned income not subject to the provisions of Section IV of this Ordinance relating to the collection at the source, shall make and file with the Income Tax Officer on a form prescribed or approved by the officer a quarterly return on or before April 30 of the current year, and July 31 and 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 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, and subject to the tax, together with such other 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 as due thereon.

(f) Every taxpayer shall, on or before April 15, of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of earned income received during the period beginning January 1, of the current year, and ending December 31, of the current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions of Article IV of this Ordinance relating to the collection at the source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

(g) Any taxpayer who has complied with those provisions of the Haycock Township Ordinance levying a tax of one percent (1%) on salaries, wages, commissions and other compensation and on net profits earned and received in the year one thousand nine hundred seventy-seven, which relate to the filing of declarations shall be deemed to have complied with the requirements of this Ordinance relating to the filing of declarations for the year one thousand nine hundred seventy-seven, only.

ARTICLE IV. COLLECTION AT SOURCE

(a) Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Township who employs one or more persons, other than domestic servants, for a salary, wage, commission, compensation or other earned income, who has not previously registered, shall, within fifteen days after the effective date of this Ordinance or within fifteen days after becoming an employer, whichever occurs first, register with the Income Tax Officer his name and address and such other information as the officer may require.

(b) Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Township who employs one or more persons, other than domestic servants, for a salary, wage, commission, compensation or other earned income, 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 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 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.

Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the

proper amount of tax shall be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the officer on or before the last day of the month succeeding the month for which the tax was withheld.

(c) On or before February 28 , of the succeeding year, every employer shall file with the Income Tax 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.

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

(e) Every employer who wilfully or negligently fails or omits to make the deductions required by this ordinance 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.

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

ARTICLE V. POWERS AND DUTIES OF OFFICER

(a) It shall be the duty of the Income Tax Officer to collect and receive the taxes, fines and penalties imposed by this ordinance. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.

(b) The officer, before entering upon his official duties shall give and acknowledge to the Township a bond in the form and amount as is required by law. The bond shall be joint and several with such sureties as are authorized by law.

The bond shall be conditioned upon the faithful discharge by the officer, his clerks, assistants and appointees of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required by him by virtue of his office, upon the just and faithful accounting or payment over, according to law, of all moneys and all balances thereof paid to, received or held by him by virtue of his office and upon the delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office.

The bond shall be in the name of the Township and shall be for the use of the Township and for the use of such other person or persons for whom money shall be collected or received, or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the principal on the bond. The Township or any person may sue upon the said bond in its or his own name for its or his own use.

(c) The Income Tax Officer is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this ordinance, provided that all such rules and regulations must be first approved by resolution of the Township Supervisors.

(d) The officer shall refund, 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.

(e) The officer and agents designated by him are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the officer reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration 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.

(f) Any information gained by the officer, his agents, or by any other official or agent of the Township, 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, or as otherwise provided by law.

(g) The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

(h) The officer shall, at least quarterly, distribute earned income taxes to the appropriate political subdivisions. If the officer, within one year after receiving a tax payment, cannot identify the taxing jurisdiction entitled to a tax payment, he shall make payment to the municipality in which the tax was collected.

ARTICLE VI Compensation of Income Tax Officer

The officer shall receive such compensation for his services and expenses as the Township Supervisors shall determine.

ARTICLE VII Suit for Collection of Tax

(a) The officer may sue in the name of the Township for the recovery of taxes, interest and penalties due and unpaid under this ordinance, or for the

recovery of an erroneous refund, subject to such limitations as are provided by law.

(b) Any suit brought to recover the tax imposed by the ordinance shall be begun within three years after such tax is due, or within three years after the declaration or return has been filed, whichever date is later: Provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

(1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of the ordinance or resolution, there shall be no limitation.

(2) Where an examination of the declaration or return filed by any person, or of other evidence relating to such declaration or return in the possession of the officer, reveals a fraudulent evasion of taxes, there shall be no limitation.

(3) In the case of substantial understatement of tax liability of twenty-five percent or more and no fraud, suit shall be begun within six years.

(4) Where any person has deducted taxes under the provisions of the ordinance or resolution, and has failed to pay the amounts so deducted to the officer, or where any person has wilfully failed or omitted to make the deductions required by this section, there shall be no limitation.

(5) This section shall not be construed to limit the governing body from recovering delinquent taxes by any other means provided by this act.

(c) The officer may sue for recovery of an erroneous refund provided such suit is begun two years after making such refund, except that the suit may be brought within five years if it appear that any part of the refund was induced by fraud or misrepresentation of material fact.

ARTICLE VIII. INTEREST AND PENALTIES

If for any reason the tax is not paid when due, interest at the rate of six percent 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.

ARTICLE IX. FINES AND PENALTIES FOR VIOLATION OF ORDINANCES OR RESOLUTIONS

(a) Any person who fails, neglects, or refuses to make any declaration or return required by the ordinance or resolution, 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, records, 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 the ordinance or resolution, shall, upon conviction thereof before any justice of the peace, alderman or magistrate, or court of competent jurisdiction in the county or counties in which the political subdivision imposing the tax is located, be sentenced to pay a fine of not more than five hundred dollars (\$500) for each offense, and costs, and, in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty days.

(b) Any person who divulges any information which is confidential under the provisions of the ordinance or resolution, shall, upon conviction thereof before any justice of the peace, alderman or magistrate, or court of competent jurisdiction, be sentenced to pay a fine of not more than five hundred dollars (\$500) for each offense, and costs, and, in default of payment of said fines and costs to be imprisoned for a period not exceeding thirty days.

(c) The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of the ordinance or resolution.

(d) The failure of any person to receive or procure forms required for making the declaration or returns required by the ordinance or resolution shall not excuse him from making such declaration or return. 1965, Dec. 31, P.L. 1257 813.

ARTICLE X. INCORPORATION OF LOCAL TAX ENABLING ACT

All provisions of the Act No. 511 of 1965, "The Local Tax Enabling Act" and all subsequent amendments to said Act are incorporated herein by reference.

ARTICLE XI. EFFECTIVE DATE

This Ordinance shall become effective on *May 4, 1977*

ARTICLE XII. SEVERABILITY

The provisions of this Ordinance are severable. If any sentence, clause, or section if for any reason is found to be unconstitutional, illegal or invalid, this shall not affect or impair any of the remaining provisions which are intended to remain in full force and effect.

ARTICLE XIII. MISCELLANEOUS

The provisions of this Ordinance so far as they are the same as those of Ordinances in force immediately prior to the enactment of this Ordinance, are intended as a continuation of such Ordinances and not as new enactments. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall they affect any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any Ordinance repealed by this Ordinance.

SO ENACTED AND ORDAINED this *4th* day of *May*, A.D., 1977, by the Board of Supervisors of Haycock Township.

BOARD OF SUPERVISORS OF
HAYCOCK TOWNSHIP

Ronald C. Lott
Paul H. Hubner
Ed W. Hunter