

UPPER DUBLIN TOWNSHIP

EARNED INCOME  
AND  
NET PROFITS  
TAX REGULATIONS

Adopted 4/10/90

EARNED INCOME TAX AND NET PROFITS  
TAX REGULATIONS OF THE  
TOWNSHIP OF UPPER DUBLIN

The following Regulations are hereby prescribed, adopted, and promulgated pursuant to Section 5 of Ordinance No. 717 of the Township of Upper Dublin relating to the imposition of a tax on earned income and net profits as more precisely described therein.

These Regulations are to be read in conjunction with the aforementioned Ordinance and are intended to elaborate upon and interpret said Ordinance. In the event a situation should rise which is not specifically covered by these Regulations, the Township reserves the right to make a determination of liability.

UPPER DUBLIN TOWNSHIP EARNED INCOME TAX  
TABLE OF CONTENTS

1. GENERAL PROVISIONS.
  - 1.1. Definitions
2. IMPOSITION AND RATE OF TAX.
  - 2.1. GENERALLY:
    - (a) Effective Date of TAX
  - 2.2. EARNED INCOME:
    - (a) What is included as taxable earnings of employees.
    - (b) What is excluded from EARNED INCOME.
    - (c) Employees' deduction for expenses directly connected with employment.
  - 2.3. NET PROFITS:
    - (a) Persons, Entities, Activities and Property Subject to the TAX on NET PROFITS.
      1. Persons Subject to TAX on NET PROFITS.
      2. Entities Subject to TAX on NET PROFITS.
      3. Activities Subject to the TAX on NET PROFITS.
      4. Property subject to the TAX on NET PROFITS.
  - 2.4. CREDITS FOR PAYMENT OF NET PROFITS OR EARNED INCOME TAXES TO OTHER TAXING BODIES:
    - (a) Credits or Deductions for Payment of TAXES to Other Taxing Bodies.
  - 2.5. NET PROFITS:
    - (a) Computation of NET PROFITS.
3. DECLARATION AND PAYMENT OF THE TAX.
  - 3.1. NET PROFITS TAX.
    - (a) Procedure to Declare the NET PROFITS TAX.
  - 3.2. EARNED INCOME TAX.
    - (a) Employees Whose Taxes are not Withheld.
    - (b) Employees Whose Taxes are Withheld, but are nonetheless required to file a Return.
    - (c) TAXPAYERS with portions of Taxes Withheld and/or Portions of Taxes Not Withheld and/or NET PROFITS taxes.
  - 3.3. THE FINAL RETURN AND REQUIRED ATTACHMENTS.
    - (a) Final Return.
    - (b) Extension of Time to File Final Return.
    - (c) Required Attachments to the Final Return.

4. COLLECTION AT SOURCE.
  - 4.1. Registration of EMPLOYERS and TAXPAYERS.
  - 4.2. EMPLOYERS Required to Withhold.
  - 4.3. EMPLOYERS.
  - 4.4. Withholding TAX From Drawing Accounts.
  - 4.5. Allowance for Expenses Claimed by Employees.
  - 4.6. EMPLOYERS of Domestic Servants.
  - 4.7. Liability of EMPLOYERS and Employees.
  - 4.8. Amount of TAX to be Withheld.
  - 4.9. Final Return of EMPLOYER.
  
5. ADMINISTRATION AND ENFORCEMENT.
  - 5.1. Powers and Duties of TOWNSHIP MANAGER.
  - 5.2. Examination of Books and Records of TAXPAYERS and EMPLOYERS.
  - 5.3. Records to be Kept by TAXPAYERS.
  - 5.4. Assessment and Collection of Underpayment of the TAX.
  - 5.5. Hearings.
  - 5.6. Appeals for Decisions of the TOWNSHIP MANAGER.
  - 5.7. Refunds and Credits.
  
6. SUIT FOR COLLECTION OF THE TAX.
  - 6.1. Suit for Collection of TAX.
    - (a) Suit by the TOWNSHIP.
    - (b) Time Limits.
    - (c) Distress and Sale of Goods and Chattels of TAXPAYERS.
    - (d) Collection of Delinquent EARNED INCOME TAXES From EMPLOYERS, Etc.
    - (e) Collection of Delinquent EARNED INCOME TAXES From the Commonwealth.
    - (f) TOWNSHIP to Collect Unpaid TAXES.
  
7. INTERESTS AND PENALTIES.
  - 7.1. Interests and Penalties.
  - 7.2. Fines and Penalties for Violation of ORDINANCE.
  - 7.3. Applicability of the TAX.

## 1. GENERAL PROVISIONS

1.1 Definitions: For the purpose of these regulations, the following terms shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning;

- (a) ACT 511 TAX: That portion of the TAX enacted under the Local Tax Enabling Act. (1)
- (b) ASSOCIATION: A partnership, limited partnership, or any other unincorporated group of two or more persons.
- (c) BONUSES: Benefits accruing from employment, including, but not limited to annual leave, vacation, holidays, sickness and separation benefits, but excluding benefits mentioned in Section 2.2.2.
- (d) BUSINESS: An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for a profit or ordinarily conducted for a profit whether by a person, partnership, ASSOCIATION, or any other activity.
- (e) BUSINESS EXPENSES: The ordinary and necessary expenses of doing business unless otherwise defined herein.
- (f) CAPITAL GAIN: Capital Gains reported on Federal Form 1040, Schedule D.
- (g) CODE: The Township Code.
- (h) 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.
- (i) CURRENT YEAR: The calendar year for which the TAX is levied.
- (j) DIVIDENDS: All forms of dividends received by a person.
- (k) 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 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 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.
- (l) EARNED INCOME: Salaries, wages, commissions, BONUSES, INCENTIVE PAYMENTS, fees, tips and other compensations 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 or 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 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.

EARNED INCOME includes any item that is correctly reportable on the Commonwealth of Pennsylvania Department of Revenue Form PA 40, Line 1A, or any item that is correctly reportable on Line 7 of the IRC Form 1040.

Effective January 1, 1990, Earned Income and /or Net Profits totaling \$3,000 or less are exempt from payment of the TOWNSHIP tax. (However, see Section 3.3 (a) for Final Return filing requirements.)

- (m) 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.
- (n) FELLOWSHIPS, GRANTS AND STIPENDS: Payments to a student under the terms of a fellowship, or other grant which require full time services by him, except that where the payment is solely for the advancement of the education of the grantee and no primary and material benefit accrues to the grantor, such payments are not regarded as EARNED INCOME.
- (o) INCENTIVE PAYMENT: Payments received from employers other than the usual compensation, for purposes of inducing the employee to make a decision – such as moving to another location or accepting an early retirement – are INCENTIVE PAYMENTS. Such payments constitute taxable income. If the payment of such sums is to be made in the future, such sums will be taxed in the year they are received.

Example: Employer X offers to give Employee Y an INCENTIVE PAYMENT of \$15,000.00 if Employee Y agrees to retire before his scheduled time. The \$15,000.00 is to be paid at a rate of \$5,000.00 per year over a three-year period after the retirement takes effect. The \$15,000.00 is taxable income. It will be taxed in the years that it is received by Employee Y. That is to say that Employee Y will have to include as earned income the extra \$5,000.00 for each of the three years following his retirement.

- (p) INTEREST: All forms of interest, i.e., on obligation of the United States or its possessions, the Commonwealth of Pennsylvania, or any political sub-division thereof, or on bank or savings accounts, mortgages, or loans, received by an individual.
- (q) IRC: The Internal Revenue Code, as amended from time to time.
- (r) LIFE INSURANCE PROCEEDS: Proceeds of life insurance policies payable by reason of the death of an insured to his estate or to a beneficiary.
- (s) MILITARY PAY: Compensation paid by the United States to any person on account of services performed while on active or reserve service in the Army, Navy, or Air Force of the United States.
- (t) 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.

NET PROFITS include any item that is correctly reportable on the Commonwealth of Pennsylvania Department of Revenue Form PA 40, Line 4 or any item that is correctly reportable as active income on Federal Schedules C, F, E, and K-1. For example, income reported on a K-1 that is determined to be passive on a Federal level is not subject to the tax on NET PROFITS.

Effective January 1, 1990, Earned Income and/or Net Profits totaling \$3,000 or less are exempt from payment of the TOWNSHIP tax. (However, see Section 3.3 (a) for Final Return filing requirements.)

- (u) NONRESIDENT: A person, partnership, ASSOCIATION or other entity domiciled outside the taxing district.
- (v) ORDINANCE: The legislation enacting the TAX.
- (w) PERSON OR INDIVIDUAL: A natural person.
- (x) PRECEDING YEAR: The calendar year before the CURRENT YEAR.
- (y) PUBLIC ASSISTANCE COMPENSATION: Payments made under any public assistance or unemployment compensation legislation.
- (z) REAL ESTATE: Includes but is not limited to land, loft buildings, single dwellings, duplexes, garages and all other structures which can be let or leased to obtain income.
- (aa) REGULATIONS: These regulations enacted by Resolution 1395 of the TOWNSHIP.
- (bb) RESIDENT: A person, partnership, ASSOCIATION, or other entity domiciled in the TOWNSHIP.
- (cc) RETIREMENT PAY: Periodical payments including retirement benefits from the government such as social security payments, commonly recognized as old-age, retirement or pension payments, made to persons retired from service after reaching a specific age or after a stated period of employment.
- (dd) SCHOOL DISTRICT: The School District of the TOWNSHIP.
- (ee) SICK BENEFITS: Periodical payments received by an INDIVIDUAL under a sickness or disability insurance plan.
- (ff) SUCCEEDING YEAR: The calendar year following the CURRENT YEAR.
- (gg) TAX: The EARNED INCOME Tax and NET PROFITS Tax enacted under Ordinance No. 717 of the TOWNSHIP and amended under Ordinance No. 842 of the TOWNSHIP.
- (hh) TAXPAYER: 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.

- (ii) TAXES ASSUMED BY THE EMPLOYER: The payment of taxes by the employers in consideration of services rendered by the employee is a gain derived by the employee from his labor and is therefore to be considered as part of his EARNED INCOME. The income is taxable in the year that it is reported as taxable on W-2 Form or similar form.
- (jj) TOWNSHIP: The Township of Upper Dublin, a first class Township, Montgomery County, Commonwealth of Pennsylvania.
- (kk) TOWNSHIP MANAGER: Shall mean the Manager of the TOWNSHIP or any employee of the TOWNSHIP under the MANAGER'S supervision.
- (ll) WORKMEN'S COMPENSATION BENEFITS: Compensation received by employees under the provisions of the Worker's Compensation Act, Occupational Disease Act, or similar legislation, together with any amount received as damages by suit or agreement on account of any injury or disease.

## 2. IMPOSITION AND RATE OF TAX

### 2.1 GENERALLY

- (a) Effective Date of TAX: The TAX levied under the Act shall be applicable to EARNED INCOME received and to NET PROFITS earned in the period beginning January 1 of the CURRENT YEAR, and ending December 31, of the CURRENT YEAR, or for TAXPAYER fiscal years beginning in the CURRENT YEAR, except that TAXES imposed for the first time shall become effective from the date specified in the ORDINANCE, and the TAX shall continue in force on a calendar or TAXPAYER fiscal year basis, without annual reenactment, unless the rate of the TAX is subsequently changed. The present rate of TAX is 1.0%. Changes in rate shall become effective on the date specified in the ORDINANCE as amended from time to time.

### 2.2 EARNED INCOME TAX

- (a) What is included as Taxable Earnings of Employees. The following items of compensation received by an employee, whether directly or through an agent, whether in cash or in property, and whether based on an hourly, daily, weekly, semi-monthly, annual, unit of production, or piece work basis, for services rendered as an employee, agent or officer of an individual, partnership, ASSOCIATION, corporation (BUSINESS or nonprofit), or governmental agency, are subject to the TAX.
  1. Salaries.
  2. Wages.
  3. Commissions.
  4. Drawing Accounts. If amounts received as a drawing account exceed the salaries or commissions earned, the TAX is payable on the amounts received. If the employee subsequently repays to the EMPLOYER any amounts not in fact earned, the TAX shall be adjusted accordingly.
  5. BONUSSES.
  6. INCENTIVE PAYMENTS.

7. Tips received/Religious Offerings.
  8. Religious Offerings: These items, which are voluntary offerings made by individuals for the performance of baptisms, wedding ceremonies, etc., received by clergymen, evangelists or religious workers, are considered earned income and are taxable.
  9. Fees.
  10. Benefits accruing by virtue of the employment.
  11. Vacation, Holiday and Separation Payments. Such payments are fully taxed to an employee.
  12. TAXES ASSUMED BY THE EMPLOYER.
  13. FELLOWSHIPS, GRANTS AND STIPENDS.
  14. Compensation received in property shall be taxed at its fair market value as of the time of receipt.
  15. Any plan which through an employee's contribution serves to reduce gross taxable wages for federal income tax purposes is not recognized as an exclusion for the TAX and will therefore be taxed accordingly. For example, an employee's contribution under Section 403(b), Section 457, or Section 401(K) of the Internal Revenue Code will not be recognized as a reduction of taxable wages for purposes of this TAX.
  16. All "Non-cash" fringe benefits accruing by virtue of employment recognized as taxable by the Commonwealth of Pennsylvania are also to be included as taxable income for purposes of the TAX.
- (b) What is Excluded from EARNED INCOME: The following payments or benefits received by an individual shall not be subject to the TAX:
1. Old-age Benefits, RETIREMENT PAY, and Pensions: Income given to induce an early retirement, where payment is deferred until after retirement IS to be included as EARNED INCOME and is taxable in the year that it is RECEIVED.
  2. Sick or Disability Benefits: SICK BENEFITS are not taxable. Where, however, an employee received regular salary from his EMPLOYER during a period of sickness or disability, by virtue of his contract of employment, such compensation shall be fully taxed.
  3. Benefits Arising Under the Workmen's Compensation Act, Occupational Disease Act, and Similar Legislation. WORKMEN'S COMPENSATION BENEFITS are not taxable.
  4. Capital Gains: CAPITAL GAINS are not taxable. However, ordinary income for Federal income tax purposes resulting from recapture of depreciation IS subject to the TAX.
  5. Public Assistance Compensation or Unemployment Compensation Payments: PUBLIC ASSISTANCE COMPENSATION is not taxable.

6. Active Military Service Pay: MILITARY PAY is not taxable.
  7. Bonuses Paid by United States, Pennsylvania or any Other State, for Active Military Service: Any bonus or additional compensation paid to a person by the United States, by the Commonwealth of Pennsylvania or any other state, for service in the Army, Navy, or Air Force of the United States, is not taxable. Persons in the Reserves who report for temporary duty and receive income for that period will be considered on active duty for the purposes of the TAX.
  8. Death Benefits: Where an EMPLOYER makes death benefit payments to the beneficiary of an employee or to his estate, whether payable in a lump sum or otherwise, such payments are not taxable.
  9. Life Insurance Proceeds: LIFE INSURANCE PROCEEDS are not taxable.
  10. Gifts and Bequests: Cash or property received as a gift or under a will or under statutes of descent and distribution is not taxable.
  11. INTEREST: All INTEREST is not taxable. However, where a person is engaged in the BUSINESS of loaning money at interest i.e., loan or finance companies or private bankers, the NET PROFITS of such BUSINESS are taxable.
  12. DIVIDENDS: All forms of DIVIDENDS shall not be subject to this TAX unless such person is a dealer in securities, in which case the NET PROFITS of such BUSINESS are taxable to such dealer in securities.
  13. Board and Lodging to Employees for Convenience of EMPLOYER: The value of meals and lodging furnished to domestics or other employees by the EMPLOYER for the latter's convenience is not considered EARNED INCOME and is not taxable. Where, however, board or lodging is provided by the EMPLOYER and the employee is not required to reside on the premises by his EMPLOYER, the fair market value of the board or lodging shall be included in the employee's earnings.
  14. W/S Supplemental Programs: 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, are not taxable.
  15. S-Corporations: Income from Chapter S corporations is not taxable.
- (c) Employees' Deduction for Expenses Directly Connected With Employment. BUSINESS EXPENSES for which an employee has not been reimbursed are allowed as a deduction from gross wages provided such expenses are necessary (required by the EMPLOYER) in order for the TAXPAYER to keep his present job. Examples include, but are not limited to:
1. Transportation expenses incurred by the TAXPAYER as a condition of employment and required by the EMPLOYER are allowed as deductions, less the amount of any reimbursement the TAXPAYER receives. Neither the cost of commuting to and from one's job site nor the cost of commuting to

and from a secondary place of employment are allowed as deductions. For purposes of this section, items constituting transportation expenses and deductions will be defined by the IRC.

2. EMPLOYEES' transportation and expenses while away from home overnight (meals and lodging, etc.) incurred as a condition of employment and required by the EMPLOYER are allowed as a deduction, less the amount of any reimbursement the TAXPAYER receives.
3. Outside salespersons, one who solicits BUSINESS away from their EMPLOYER'S place of BUSINESS as a full-time salesperson, are allowed all BUSINESS EXPENSES incurred as a condition of employment, less the amount of reimbursement. These expenses include the cost of transportation, meals, lodging, tips, etc. A salesperson whose principal activity is service and delivery is not an outside salesperson nor is an inside salesperson who makes incidental calls and sales. Inside salespersons would be permitted ordinary expenses included in (a) and (b) above. Stockbrokers would not be considered outside salespersons while insurance agents may be so considered, dependent on the nature of each individual agent's method of operation.
4. Employees engaged in income producing activities separate and apart from their salary and wages may be permitted ordinary expenses. (Refer to Section 208.) Employees whose activities do not generate supplemental income are not allowed deductions for associated expenses.

Business Expenses as documented on Pennsylvania Department of Revenue Schedule UE-1 are permitted. If employee business expenses are claimed, a copy of Federal Form 2106 must be provided. If moving expenses are claimed, a copy of Federal Form 3903 must be provided.

These items are examples of non-deductible employee expenses: (1) personal, family or living expenses; (2) commuting to and from work; (3) taxes based on income; (4) insurance payments; (5) hospitalization; (6) pension plan and IRA payments; and, (7) entertainment.

5. Education expenses are deductible if the education which is undertaken (a) maintains or improves a skill required of the individual in his employment or other trade or business, or (b) meets the express requirements of law or regulations, imposed as a condition to the retention by the individual of an established employment relationship, status, or rate of compensation. **HOWEVER, EXPENSES FOR EDUCATION WHICH ARE OF A PERSONAL OR SELF-IMPROVEMENT NATURE ARE NOT DEDUCTIBLE EVEN THOUGH THEY MAINTAIN OR IMPROVE SKILLS RELATED TO THE INDIVIDUAL'S PRESENT EMPLOYMENT OR QUALIFY THE INDIVIDUAL FOR A NEW TRADE OR BUSINESS.**

## 2.3 NET PROFITS

- (a) Persons, Entities, Activities and Property Subject to the TAX on NET PROFITS. NET PROFITS include any item correctly reportable on Form PA 40, Line 2 or as reported on Schedule C, F, E and K-1.

1. Persons Subject to Tax on NET PROFITS. Any individual engaged in a BUSINESS, trade, profession or other activity carried on for a profit, shall pay a TAX on the NET PROFITS therefrom.

2. Entities Subject to TAX on NET PROFITS.

2(a) Partnerships and ASSOCIATIONS. A partnership, ASSOCIATION, or other entity owned by two or more persons and carrying on a BUSINESS, trade, profession or other activity, wholly or partly within the TOWNSHIP shall be required to pay the TAX for each partner's or member's share of the total NET PROFITS therefrom to the extent of each partner's member's TAX liability, whether or not the NET PROFITS are actually distributed to the partners or members.

2(b) Trusts and Estates. Every trust or estate (whether the beneficiary is an individual or corporation) is subject to the TAX on the NET PROFITS of any BUSINESS or other taxable activity conducted by it as part of its beneficiary duties.

3. Activities Subject to the TAX on NET PROFITS.

3(a) Labor and Service. The furnishing of labor and services signifies "activity" and participation on the part of the TAXPAYER, and classifies him as conducting/carrying on a 'BUSINESS'.

"Labor" is intended to apply to janitor, maid or supervisory service, whether performed by the owner, his agents or employees.

"Service" shall include elevator, heat, light, power and the like.

3(b) Persons, partnerships or ASSOCIATION engaged in Professions. Persons, partnerships, or ASSOCIATIONS engaged in a profession are subject to the NET PROFITS tax. Where the individual, in addition to his general practice or other BUSINESS, operates at a loss, such loss may be offset against the fixed salary for the purpose of this TAX. (Reference O'Reilly vs. Fox Chapel.)

4. Property subject to the TAX on NET PROFITS.

4(a) Generally – When any property falls within taxable classification the manner of its acquisition, i.e., purchase, gift, inheritance, fiduciary, or as a fiduciary mortgagor in possession, etc., does not affect the taxability of the income derived therefrom, unless specifically stated otherwise.

4(b) Income from Rental of REAL ESTATE: "Real Estate" includes land, loft buildings, apartment hotels, office buildings, apartment houses, single dwellings, duplex apartments, garages, and similar structures. Rental income received from the operation of real estate by persons, trust companies or real estate agents, acting for or on behalf of persons or estates, is subject to the tax, if the owner either himself or through agents or servant actively manages and supervises the real estate by providing labor and services therewith. If a person owns several parcels of real estate from which he receives rental income and provides services as to some of the properties, he is only liable for the tax on net rentals of those properties in connection with which services are furnished.

Where, however, the rental income is derived merely from the passive ownership of real estate, it is not taxable even though the owner or his agents may make repairs or do such other acts which an owner normally does to preserve his property.

4(c) NET PROFITS From the Sales of REAL ESTATE: Any gain realized from the sale of REAL ESTATE which is not determined to be a CAPITAL GAIN for federal income tax purposes will be subject to the TAX. Therefore, gains from the sale of REAL ESTATE, which include depreciation recapture, is subject to EARNED INCOME TAX on the amount determined to be recaptured. However, there will be no recognition of EARNED INCOME on the recapture of depreciation to the extent that the TAXPAYER did not realize a TOWNSHIP tax benefit.

Where a TAXPAYER is in doubt as to the taxable status of rental income, or the gain or profit from the sale of REAL ESTATE, he shall submit a detailed written statement to the Township Manager for a ruling.

4(d) Royalties: Income received as a royalty is taxable when the income consists of monies received by the owner of a patent or private formula for the use of it or the right to act under it, or by the author of a book, but does not include royalties derived from natural resource production (i.e. coal, gas, timber, etc.).

#### 2.4 CREDITS FOR PAYMENT OF NET PROFITS OR EARNED INCOME TAXES TO OTHER TAXING BODIES.

(a) Credits or Deductions for Payment of Taxes to Other Taxing Bodies by:

1. NONRESIDENTS: Payment of any tax under ACT 511 of 1965 on salaries, wages, commission, other compensation or on NET PROFITS of BUSINESS, professions or other activities to a political subdivision other than the TOWNSHIP by the RESIDENT thereof shall be credited to and allowed as a deduction from the liability of such NONRESIDENTS for the TOWNSHIP TAX.
2. RESIDENTS: Payment of a tax on income to any state other than Pennsylvania or to any political subdivision located outside of Pennsylvania by RESIDENTS of the TOWNSHIP shall be credited to and allowed as a deduction for the TOWNSHIP'S TAX. In no event may a TAXPAYER take the same credit against the TOWNSHIP TAX that he takes against Commonwealth of Pennsylvania income taxes. The amount of the tax credit cannot exceed the amount of the taxpayer's tax liability to Upper Dublin Township.
3. RESIDENTS who take credit for taxes paid in other jurisdictions must complete a Supplemental Final Return Form which can be obtained from the Tax Office. Documentation must include a notarized list of income earned in all jurisdictions along with the respective taxes paid, a copy of the Commonwealth of Pennsylvania Individual Income Tax Return (PA-40), and additional documentation as required.
4. Taxpayers who pay the Philadelphia Wage Tax or Net Profits Tax may take a credit for the full amount paid to Philadelphia against the EARNED INCOME and NET PROFITS subject to the TOWNSHIP TAX.

Examples:

- (1) TAXPAYER A, a RESIDENT of the TOWNSHIP, who works in Norristown and pays Norristown earned income tax of 1.6%, is entitled to a credit of up to 1.0% of EARNED INCOME toward his TOWNSHIP EARNED INCOME TAX liability.
- (2) TAXPAYER B, a RESIDENT of the TOWNSHIP, works full time in Camden, New Jersey, which exacts a 1.3% tax on his earnings in that City. TAXPAYER B may credit payment of the tax to Camden against the TOWNSHIP'S TAX under ACT 511.
- (3) TAXPAYER C, a RESIDENT of the TOWNSHIP, is a partner in a national engineering firm with offices in the TOWNSHIP, Chicago, New York City and San Francisco. TAXPAYER C pays taxes on income earned in each of these localities. TAXPAYER C may take credit toward the TOWNSHIP ACT 511 TAX using the following method:
  - a. Determine the income earned in each locality in that year.  
\$10,000 in New York City  
5,000 in Chicago  
15,000 in San Francisco  
50,000 in the TOWNSHIP  
\$80,000 gross income – all taxable to the TOWNSHIP
  - b. Determine the maximum credit that can be taken for taxes paid to other localities.  
 $\$10,000 \times 1.0\% = \$100.00$   
 $5,000 \times 1.0\% = 50.00$   
 $15,000 \times 1.0\% = 150.00$   
\$150.00 maximum credit that can be applied to the TAX.
  - c. List the amount of TAX paid to each locality.  
\$ 400.00 to New York City  
200.00 to Chicago  
600.00 to San Francisco  
\$1200.00 total TAX paid to other jurisdictions
  - d. Subtract from the total the credit taken on the Pennsylvania State Return (PA-40).  
\$1200.00 total paid to other jurisdictions  
735.00 credit taken on PA-40  
\$ 465.00 credit remaining
  - e. The maximum credit that can be applied to the TOWNSHIP'S TAX is \$150.00 (see above step 2). This can be entered on the Final Return. If the credit remaining after step 4 had been less than \$150, then that amount would be allowed as a credit.

## 2.5 NET PROFITS

### (a) Computation of NET PROFITS.

1. Generally: The NET PROFITS of a BUSINESS, trade, profession or other activity shall be computed by subtracting from gross receipts the cost of goods sold and BUSINESS EXPENSES.

A BUSINESS EXPENSE which is not permitted as a deduction by the Federal government for income tax purposes will not be allowed. However, not every deduction allowed by the Federal government will be allowed for EARNED INCOME TAX purposes. (Withdrawals by the owner or proprietor of a BUSINESS are not considered an expense of doing BUSINESS and, therefore, not allowed as a deduction.)

A net loss on any year may not be carried over to any other year. A person cannot offset a loss against a NET PROFIT of his or her spouse. One business cannot offset a loss against another business' loss or against the NET PROFITS of another BUSINESS.

All persons are presumed to be on a cash basis. When the books of the TAXPAYER are maintained on an accrual or other basis which is used for Federal income tax purposes, such basis must be used for the purpose of computing the tax on NET PROFITS.

2. Salaries and Wages Paid: Such payments made to employees in connection with the owners' trade or BUSINESS, are deductible. Withdrawals by the owner or proprietor of the BUSINESS are not considered an expense of doing BUSINESS and, therefore, not allowed as a deduction.
3. Repairs: Any repairs to buildings, machinery, furniture, equipment, etc. used in the BUSINESS may be deducted.
4. Keoghs, and IRA Plans, etc.: A contribution by an owner or proprietor of a BUSINESS to a plan for employees is an allowable deduction, however, any contribution made on behalf of an owner or proprietor is not allowable.

## 3. DECLARATION AND PAYMENT OF TAX.

### 3.1 NET PROFITS TAX

#### (a) Procedure to Declare the NET PROFITS TAX.

1. The Quarterly Return: Every TAXPAYER (members of a partnership are responsible for filing NET PROFIT estimates) making NET PROFITS shall make Quarterly payments to the Tax Officer, of one-fourth (1/4) of the total estimated tax due for the year, at the following times:

For Quarter Comprising the Following Months in which Net Profits are earned:	Quarterly Payment (1/4 of total estimated tax owed) is due on or before:
Jan., Feb., March:	April 30
April, May, June:	July 31
July, Aug., Sept.:	October 31
Oct., Nov., Dec.:	January 31 of the <b>Succeeding Year</b>

Example:

If a TAXPAYER has high BUSINESS EXPENSES in the first quarter which would cause a loss for the first quarter, this does not allow a delay in the payment of TAXES equal to one-fourth (1/4) the estimated annual NET PROFITS.

Taxpayer A is self-employed. For the 1<sup>st</sup> Quarter, Taxpayer A filed a quarterly statement indicating zero earnings for the quarter. Although Taxpayer A's expenses may exceed revenues, he must make quarterly tax payments based on his estimated tax liability for the year to avoid penalty and interest charges.

2. The Quarterly Return Form: The Quarterly Return is to be filed on a form prescribed or approved by the Tax Officer.
3. The Final Return: Every TAXPAYER making NET PROFITS shall, on or before April 15, of the SUCCEEDING YEAR, make and file a final return. The form will include the amount of NET PROFITS earned during the year, beginning January 1, of the CURRENT YEAR 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 TAX OFFICER the balance of the TAX due or shall make demand 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 TOWNSHIP on or before January 31, of the SUCCEEDING YEAR, the final return pursuant to Section 3.3.

4. The Final Return Form: The Final Return is to be filed on a form prescribed or approved by the Township.
5. Adjusted Declarations of Net Profits Tax: A TAXPAYER may make and file adjusted declarations and pay the estimated TAX in cases where a TAXPAYER who has filed the previous quarterly return anticipates additional NET PROFITS not previously declared or finds that he has overestimated his anticipated NET PROFITS.
6. Every TAXPAYER who discontinues BUSINESS prior to December 31, of the CURRENT YEAR, shall, within thirty days after the discontinuance of BUSINESS, file his final return as herein above required and pay the TAX due.
7. Where a TAXPAYER, who has filed the declaration herein above required, anticipates additional NET PROFITS not previously declared which equal twenty-five percent (25%) or more of the estimated NET PROFITS previously declared, he shall, on or before June 15, September 15 or December 31, whichever of these dates next follows the date on which the TAXPAYER first anticipated the additional NET PROFITS, file an adjusted declaration showing the additional NET PROFIT anticipated and pay the additional TAX due in full, or in equal installments. If a declaration was filed, or if no declaration was filed, and the TAX finally determined to be due exceeds the TAX paid by 25%, 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.

8. Where a TAXPAYER, who has filed the declaration herein above required, finds that he has overestimated his anticipated NET PROFITS by twenty-five (25%) or more, he may file an adjusted declaration on or before June 15, September 15, or December 31, whichever of these dates next follows the date on which the TAXPAYER finds that he has overestimated his anticipated NET PROFITS, and the TAX shall be adjusted accordingly.

### 3.2 EARNED INCOME TAX

#### (a) Employees Whose TAXES Are Not Withheld.

1. THE QUARTERLY RETURN: Every TAXPAYER who is employed on a salary, wage, commission or other basis and who received any earnings not subject to withholding by his EMPLOYER shall file a Quarterly return setting forth the aggregate amount of salaries, wages, commissions and other compensation earned by him and any other such information as the Tax Officer, of one-fourth (1/4) of the total estimated tax due for the year, at the following times:

For Quarter Comprising the Following Months in which Net Profits are earned:	Quarterly Payment (1/4 of total estimated tax owed) is due on or before:
Jan., Feb., March:	April 30
April, May, June:	July 31
July, Aug., Sept.:	October 31
Oct., Nov., Dec.:	January 31 of the SUCCEEDING YEAR

2. The Quarterly Return Form: The Quarterly Return is to be filed on a form prescribed or approved by the Tax Officer.
3. Every TAXPAYER making such return shall, at the time of filing thereof, pay to the TOWNSHIP the amount of TAX shown as due thereon.
4. These requirements apply to all RESIDENTS of the TOWNSHIP who are employed within or outside the TOWNSHIP and to all NONRESIDENTS employed within the TOWNSHIP who are subject to the TAX.
5. All taxpayers are required to meet 80% of their total yearly tax liability through quarterly tax payments. Every taxpayer who fails to make the required quarterly statements shall be subject to penalty and interest on the amount of underpayment; i.e., the difference between the amount actually paid and the amount that should be paid each quarter. Interest shall be charged on the rate of six percent (6%) per annum 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.
6. Taxpayers may not choose to pay the tax at the end of the tax year. The only exception granted is for taxpayers with Earned Income or Net Profits that

total less than \$5,000 in the CURRENT YEAR. A taxpayer in this category may elect to pay the entire tax due at the time the Final Return is filed. No penalty or interest will be assessed on these taxpayers as long as the total Earned Income or Net Profits is less than \$5,000.

- (b) Employees Whose Taxes Are Withheld, but are Nonetheless Required to File a Return: A TAXPAYER whose EMPLOYER withholds the amount of EARNED INCOME TAX due and files Quarterly Returns to the TOWNSHIP is no required to file a quarterly return unless the TAXPAYER has additional EARNED INCOME or NET PROFITS. However, such RESIDENT TAXPAYERS are required to file a Final Return even where sufficient TAX has been withheld, and none is owed to the TOWNSHIP.

The Final Return must be filed on a form prescribed or approved by the TOWNSHIP.

- (c) TAXPAYERS with Portions of Taxes Withheld and/or Portions of Taxes Not Withheld and/or NET PROFITS Taxes.

1. TAXPAYERS with any combinations of NET PROFITS taxes, and EARNED INCOME TAXES Not Withheld, must still file Quarterly Returns based on the aggregate sum of all Income realized or anticipated for the Quarter. Final Returns must be filed for all income realized by TAXPAYERS with any combinations of NET PROFITS Taxes, EARNED INCOME Taxes Withheld and EARNED INCOME Taxes Not Withheld.

Example:

Mr. X, a resident of the TOWNSHIP, works part-time for Firm A (which withholds his amount of EARNED INCOME Tax); part-time for Firm B (which does not withhold); and part-time for himself.

In this case, Mr. X must file Quarterly Returns indicating the total amount of his EARNED INCOME Not Withheld (from Firm B) + the amount of NET PROFITS (from working for himself). It is not necessary to include the amount that has been Withheld by Firm A on the Quarterly Return, however the Final Return will have to reflect the total amount of Income received from all sources: Firm A, Firm B and the Net Profits Mr. X made while working for himself.

### 3.3 THE FINAL RETURN AND REQUIRED ATTACHMENTS

- (a) Final Return: Every RESIDENT individual, trust and estate receiving EARNED INCOME during the CURRENT YEAR, and every EMPLOYER located within the TOWNSHIP, must file a final return. The final return must be filed on or before April 15<sup>th</sup> of the SUCCEEDING YEAR, showing the amount of EARNED INCOME or NET PROFITS 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 relating to the collection at source and the balance of the TAX due. All taxpayers are required to meet 80% of their total yearly tax liability through quarterly tax payments. If the balance of the TAX due is greater than 20%, penalty and interest charges of 1% per month will be assessed on the tax due amount for failure to remit proper quarterly TAX payments. 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. The Final Return must be filed on a form prescribed or approved by the TOWNSHIP.

(b) Extension of Time to File Final Return: Taxpayer's who are filing for an extension of time to file the Final Return must submit a copy of Federal Form 4868, Automatic Request for Filing an Extension. In addition, eighty percent (80%) of the Taxpayer's estimated tax liability must be met by January 31. Penalty and interest charges will be assessed for any tax payments made after April 15.

(c) Required Attachments to the Final Return

1. Upon filing the final return, the TAXPAYER must attach the appropriate forms and schedules. (Federal Schedules C, F, K-1, 1120S, W-2 Form, 1099 Form, Schedule UE, Form 2106, and Form 3903) to support all income reported.
2. NONRESIDENTS of Pennsylvania who have EARNED INCOME in the TOWNSHIP must submit a copy of their state or local income TAX return verifying their out of state residency.
3. Any person on a visa must submit a copy of their visa along with a brief explanation of the reasons for and duration of their stay in the TOWNSHIP. The statement should indicate whether their future plans include application for U.S. citizenship.
4. A member of a partnership, joint venture, S Corporation or other entity must report their share of income distributed or distributable during the TAX year. One member of the partnership must file a copy of Federal Form 1065 as an attachment. A copy of Federal Schedule K-1 must be filed by each member of the partnership. Shareholders of S Corporation have the same requirements in that a copy of Federal Form 1120S must be filed by one shareholder and each shareholder must attach a copy of the related Form K-1.
5. Any individual claiming non-reimbursed BUSINESS EXPENSES must submit a copy of their Pennsylvania Department of Revenue Schedule UE with attachments, which itemizes expenses to support their deductions. If employee business expenses are claimed, a copy of Federal Form 2106 must be provided. If moving expenses are claimed, a copy of Federal Form 3903 must be provided.
6. Other credits, such as a carry-over credit from prior TAX years or a credit for payment of TAX to other jurisdictions, must be supported by a schedule. Copies of TAX receipts, TAX returns, or W-2's which indicate withholding for another state should be submitted as proof of payment. A copy of the individual's Pennsylvania State Return (DPA-40) must be attached to verify that the same dollar of credit was not taken against their State Income tax.
7. A BUSINESS loss must be documented.

#### 4. COLLECTION AT SOURCE

4.1 Registration of EMPLOYERS AND TAXPAYERS: 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 or other compensation, who has not

previously registered, shall within fifteen (15) days after becoming an EMPLOYER register with the TOWNSHIP providing his name and address and such other information as the TOWNSHIP may require.

- (a) Registration of RESIDENTS. Likewise, all TAXPAYERS are required to register their name and address and any such other information as the TOWNSHIP may require, within fifteen (15) days after becoming a resident or employee in the TOWNSHIP.
- (b) Registration of Employees. All employees in the TOWNSHIP are required to register with the Tax office within fifteen (15) days of becoming an employee in the TOWNSHIP.
- (c) Registration of NONRESIDENT, Nonemployer, BUSINESS Owners. Persons who have BUSINESSES in the TOWNSHIP but are non-employers and NONRESIDENT must register with the Tax office within fifteen (15) days of becoming and employee in the TOWNSHIP.

4.2 EMPLOYERS Required to Withhold: Every EMPLOYER having an office, factory, workshop branch, warehouse , or other place of BUSINESS WITHIN THE TOWNSHIP and 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 ordinance on the EARNED INCOME, due to his employee or employees.

- (a) The EMPLOYER 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 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.

For Quarter Comprising The Following Months in Which Net Profits are earned:	Quarterly Payment (1/4) of total estimated tax owed ) is due on or before:
Jan., Feb., March:	April 30
April, May June:	July 31
July, Aug., Sept.:	October 31
Oct., Nov., Dec.:	January 31 of the SUCCEEDING YEAR

- (b) The EMPLOYER shall furnish with the Quarterly Return of TAXES withheld, an Employee List, listing the employee's name, Social Security number, the employee's TOWNSHIP address, the amount of taxable wages and the amount of TAXES withheld on a form prescribed by the TOWNSHIP.
- (c) 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 to the taxing authority may be required by the TOWNSHIP to file his return and pay the TAX monthly. In such cases, payment of the TAX shall be made to the TAX OFFICER on or before the last day of the month succeeding the month for which the TAX was withheld.

4.3 EMPLOYERS: BUSINESS Located in and outside of the TOWNSHIP.

- (a) An EMPLOYER who maintains a branch in the TOWNSHIP and another branch outside of the TOWNSHIP shall also withhold the TAX from employees residing in the TOWNSHIP but working at the EMPLOYER'S branch outside of the TOWNSHIP, even though the payroll records and place of payment may be outside of the TOWNSHIP.
- (b) All EMPLOYERS whose BUSINESS, trade, profession or other activity is located in the TOWNSHIP shall withhold the TAX at the rate of one percent (1%) from the salaries, wages, commissions or other compensation earned by their employees as follows:
  - 1. For employees who are RESIDENTS of the TOWNSHIP the TAX shall be withheld for the full amount of the taxable earnings.
  - 2. For NONRESIDENT employees who reside in any community other than the City of Philadelphia, the TAX is to be withheld on all of the wages, salaries, commissions or other compensation earned. If the NONRESIDENT employee is subject to an Earned Income Tax in their resident municipality the tax withheld will be remitted to the resident municipality by the TOWNSHIP.
  - 3. Employers located in Upper Dublin Township who deduct the Philadelphia Wage Tax from the wages, salary, commission, or other compensation of employees who reside in the City of Philadelphia are not required to withhold the TOWNSHIP TAX . City Wage Tax deductions should be remitted directly to the City of Philadelphia. The Township does not accept City Wage Tax payments.

Employers who do not deduct the Philadelphia City Wage Tax from employees who reside in the City are required to withhold the TOWNSHIP TAX.
  - 4. Employers obligated to withhold the TOWNSHIP tax are required to do so regardless of the amount of income earned. Any taxpayer who pays the TOWNSHIP tax on income less that \$3,000 may apply for a refund by filing a final return.

4.4 Withhold TAX from Drawing Accounts: If the amount received by an employee as a drawing account exceeds the salaries, or commissions earned, the TAX SHALL BE WITHHELD ON THE AMOUNT RECEIVED. If the employee subsequently repays any amount not in fact earned, the TAX shall be adjusted accordingly.

4.5 Allowance for Expenses Claimed by Employees: An EMPLOYER required to withhold the TAX on a compensation paid to an employee may, in determining the amount of compensation from which the TAX is to be withheld, deduct the amount of any expenses necessarily incurred and expended by the employee in the actual performances of his services for which expenses he is not to be or has not been reimbursed by the EMPLOYER. All expenses deducted must be recognized by the IRS for income TAX purposes. Before deduction is made, the employee shall furnish to the EMPLOYER a written itemized statement of these expenses claimed. The EMPLOYER shall retain these statements of expense and make them available for examination by the TAX OFFICER or his agents. Where it is impractical to determine

the amount of expenses each month, the expenses may be deducted at the end of the year or any prior convenient time and the TAX adjusted accordingly.

4.6 EMPLOYERS of Domestic Servants: EMPLOYERS of persons performing domestic services are not required to withhold the TAX. Such EMPLOYERS may voluntarily agree to withhold the TAX in accordance with Section 5.3 of these REGULATIONS.

4.7 Liability of EMPLOYERS and Employees:

- (a) Any EMPLOYER required to withhold the TAX in accordance with the ORDINANCE and with these REGULATIONS shall be personally liable for payment of the TAX in the event he fails, refuses or neglects to withhold or transmit the TAX, in addition to the interest and penalties imposed by the ORDINANCE.
- (b) 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 the ORDINANCE relating to the filing of declarations and returns.

4.8 Amount of TAX to be Withheld: In deducting the TAX from earnings of employees and in paying tax to the TOWNSHIP, the TAX calculation shall be made only on the dollar gross value of earnings. The EMPLOYER shall withhold the TAX in accordance with these regulations, and shall be responsible for any miscalculation contrary to these regulations.

4.9 Final Return of Employer:

- (a) On or before February 28 of the SUCCEEDING YEAR every EMPLOYER shall file a Final Return Form with documentation of the total amount of salaries, wages, commissions and other compensation paid during the period beginning January of the CURRENT YEAR, and ending December 31, of the CURRENT YEAR, and the total amount of TAX withheld from such compensation to the TAX OFFICER.
- (b) The EMPLOYER'S Final Return shall be accompanied by documentation for each person employed during all or any part of the period beginning January 1, of the CURRENT YEAR and ending December 31 of the CURRENT YEAR which can be Federal Form W-2 so long as it includes the information required below, and the employees are informed of the amount of TAX withheld and paid to the TOWNSHIP. The documentation shall include 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, and the amount of TAX paid to the TOWNSHIP.
- (c) Every EMPLOYER who discontinues BUSINESS prior to December 31, of the CURRENT YEAR, shall, within thirty days after the discontinuance of BUSINESS, file the returns and withholding statements herein above required and pay the TAX due.
- (d) If any salaries, wages, commissions or other compensation earned during the period beginning January 1, of the CURRENT YEAR, and ending December 31, of the CURRENT YEAR are paid on or after January 1 of the following year, the TAX shall be withheld and may be transmitted to the TAX OFFICER in the first quarter payment made in April of that year.

5. ADMINISTRATION AND ENFORCEMENT

5.1 Power and Duties of TOWNSHIP MANAGER:

- (a) It is the duty of the TOWNSHIP MANAGER to collect and receive the TAXES, fines and penalties imposed by the ORDINANCE. It is also the TOWNSHIP MANAGER'S 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 TOWNSHIP MANAGER is charged with the administration and enforcement of the provisions of the ORDINANCE and is empowered to prescribe, adopt, promulgate and enforce, rules and REGULATIONS relating to any matter pertaining to the administration and enforcement of the ORDINANCE, including provisions for the reexamination and corrections of declarations and returns, and of payments alleged or found to be incorrect, or as to which as overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of the ORDINANCE.
- (c) The TOWNSHIP MANAGER is authorized to accept payment under protest of the amount of TAX claimed by the TOWNSHIP in any case where the person disputes the validity or the amount of the TOWNSHIP'S claim for the TAX. The payment under protest shall be accompanied by a written request for a hearing.

5.2 Examination of Books and Records of TAXPAYERS and EMPLOYERS.

- (a) The TOWNSHIP MANAGER is authorized to examine the books, papers and records of any EMPLOYER or of any TAXPAYER or of any person whom the TOWNSHIP 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 TOWNSHIP reasonably believes to be an EMPLOYER or TAXPAYER, is directed and required to give the TOWNSHIP the means, facilities and opportunity for such examination and investigation as are authorized.
- (b) Any information gained by the TOWNSHIP as a result of any declarations, returns, investigations, hearings or verifications required or authorized by the ORDINANCE shall be confidential, except in accordance with a proper judicial order, or as otherwise provided by law.
- (c) The TOWNSHIP MANAGER is authorized to establish different filing, reporting and payment dates for TAXPAYERS whose fiscal years do not coincide with the calendar year.

5.3 Records to be Kept by TAXPAYERS: TAXPAYERS and employers subject to the ORDINANCE are required to keep such records as will enable the filing of true and accurate declarations and returns, whether of TAXES withheld at source or of TAXES payable upon earnings or NET PROFITS or both; and such records shall be preserved for a period of not less than six (6) years in order to enable the TOWNSHIP MANAGER to verify the correctness of the declarations or returns filed.

5.4 Assessment and Collection of Underpayment of the TAX: If, as the result of investigation conducted by the TOWNSHIP MANAGER a declaration or return is found to be incorrect, the TOWNSHIP MANAGER is authorized to assess and collect any underpayments of TAXES withheld at source or any underpayment of TAX owed

by any TAXPAYER with respect to EARNINGS or NET PROFITS or both. If no declaration or return has been filed and a TAX is found to be due, the TAX actually due may be assessed and collected with or without the formality of obtaining a delinquent declaration or return from the TAXPAYER.

- 5.5 Hearings: Any person aggrieved by an assessment made by the TOWNSHIP MANAGER may within thirty (30) days after receipt of notice of the assessment appeal the assessment by forwarding a letter to the TOWNSHIP MANAGER stating in detail why the taxpayer believes the assessment to be incorrect and including documentation to support the appellant's position and a hearing will be arranged within thirty (30) days of the receipt of the appeal notice. The appeal proceedings shall be recorded. A decision on the appeal shall be rendered within thirty (30) days of the close of the hearing.
- 5.6 Appeals from Decisions of TOWNSHIP MANAGER: Any person aggrieved by the decision of the TOWNSHIP MANAGER following a tax hearing, or any person aggrieved by any other ruling of the TOWNSHIP MANAGER may appeal the decision in accordance with the laws of the Commonwealth of Pennsylvania.
- 5.7 Refunds and Credits:
- (a) Any TAXPAYER, whether he has paid the TAX on NET PROFITS, or whether he has personally paid the TAX on his earnings because his EMPLOYER is not subject to withholding or whether the tax has been withheld from his earnings by his EMPLOYER, may file a claim for a refund or a credit by specifying that amount in the appropriate block on the Final Return. The TOWNSHIP will pay claims for refund or issue a credit in proper cases.
  - (b) The TOWNSHIP may sue for recovery of an erroneous refund or credit provided such suit is begun two years after making such refund, except that the suit may be brought within five (5) years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.
  - (c) Refunds or credits will be made in proper cases where written claim therefore is made within three (3) years of payment of the sum involved. No refund will be made for under Ten Dollars (\$10.00) unless claimed under an exemption. Credits under Ten Dollars (\$10.00) but greater than One Dollar (\$1.00) will be issued.
  - (d) The TOWNSHIP will pay interest on any tax money which has been collected, but to which it is not legally entitled. The rate of interest shall be the same as the Commonwealth's variable rate. The interest shall be allowed and paid for the period during which the TOWNSHIP retained the overpayment, beginning with the date of the overpayment, except that if any overpayment of tax is refunded or credited within seventy-five (75) days of either, April 15 if the return is filed by then or the date of filing a final return if it occurs after April 15, then no interest shall be allowed on the overpayment.

## 6. SUIT FOR COLLECTION OF TAX

### 6.1 Suit for Collection of TAX:

- (a) Suit by the TOWNSHIP: The TOWNSHIP may sue in the name of the TOWNSHIP for the recovery of TAXES due and unpaid under this ORDINANCE.

- (b) Time Limits: Any suit brought to recover the TAX shall be begun within three (3) years after such TAX is due or, within three (3) 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 decision or return was filed by any person although a declaration or return was required to be filed by him under provisions of these REGULATIONS, 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 TOWNSHIP MANAGER reveals a fraudulent evasion of TAXES there shall be no limitation.
  3. In the case of understatement of TAX liability of ten percent (10%) or more, suit shall be filed within six years of the date when the TAX was due.
  4. Where any person has deducted TAXES under the provisions of the ORDINANCE and has failed to pay the amounts so deducted to the TAX OFFICER, or where any person has willfully failed or omitted to make the deduction required by this section, there shall be no limitation.
- (c) Distress and Sale of Goods and Chattels of TAXPAYERS: The TOWNSHIP shall have power, in case of the neglect or refusal of any person, copartnership, ASSOCIATION or corporation to make payment of the amount of any TAX due by him, after two months from the date of the TAX notice, to levy the amount of such TAX any penalty due thereon, and costs, not exceeding costs and charges allowed constables for similar services by distress and sale of the goods and chattels of such delinquent, wherever situated or found, upon giving at least ten days' public notice, and by one advertisement in a newspaper of general circulation published in the county. No failure to demand or collect any TAXES by distress and sale of goods and chattels shall invalidate any return made, or lien filed for nonpayment of TAXES or any TAX sale for the collection of TAXES.
- (d) Collection of Delinquent EARNED INCOME TAXES from Employers, Etc.: The TOWNSHIP shall demand, receive and collect from all corporations, political subdivisions, ASSOCIATIONS, companies, firms, or individuals, employing TAXPAYERS owing delinquent EARNED INCOME TAXES, or having in possession persons owing delinquent EARNED INCOME TAXES, upon the presentation of written notice and demand under oath or affirmation, containing the name of the taxable or the spouse thereof and the amount of tax due.

Upon the presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, ASSOCIATION, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees, then owing or that shall within sixty (60) days thereafter become due, or from any unpaid commissions or earnings of any such taxable on its or his possession, or that shall within sixty (60) days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the delinquent EARNED INCOME TAXES and costs, shown upon the written notice or demand, and to pay the same to the TOWNSHIP MANAGER of the taxing district in which such delinquent TAX was levied within sixty (60) days after such notice shall have been given. Such corporation, political subdivision, ASSOCIATION, firm or individual shall be entitled to deduct from the monies collected from each employee the cost incurred from the extra bookkeeping necessary to record such

transactions, not exceeding two percent (2%) of the amount of money so collected and paid over to the TAX OFFICER.

Upon the failure of any such corporation, political subdivision, ASSOCIATION, company firm or individual to deduct the amount of such TAXES or to pay the same over to the TAX OFFICER, less the cost of bookkeeping involved in such transactions, as herein provided, with the time hereby required, such corporation, political subdivision, ASSOCIATION, company firm or individual shall forfeit and pay the amount of such TAX for each such taxable whose TAXES are not withheld and paid over, or that are withheld and not paid over, together with a penalty of ten percent (10%) added thereto, to be recovered by an action of assumpsit in a suit to be instituted by the TAX OFFICER, as debts or like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law.

- (e) Collection of Delinquent EARNED INCOME TAXES from the Commonwealth: Upon presentation of written notice and demand under oath or affirmation to the State Treasurer or any other fiscal officer of the State, or its boards, authorities, agencies or commissions, it shall be the duty of the TAX OFFICER to deduct from the wages then owing or that shall within sixty (60) days thereafter become due to any employee, a sum sufficient to pay the respective amount of written notice. The same shall be paid to the tax collector of the taxing district in which said delinquent tax was levied within sixty (60) days after such notice shall have been given.
- (f) TOWNSHIP to Collect Unpaid TAXES: The TOWNSHIP shall have power to collect unpaid TAXES from the persons owing such TAXES by suit in assumpsit or other appropriate remedy. Upon each such judgement, execution may be issued without any stay or benefit of any exemption law. The right of the TOWNSHIP to collect unpaid TAXES under the provisions of this section shall not be affected by the fact that such taxes have been entered as liens in the office of the prothonotary, or the fact that the property against which they were levied has been returned to the county commissioners for TAXES for prior years.

## 7. INTEREST AND PENALTIES

7.1 Interest and Penalties: SEE 53 PUR 6319, Sec. VII. If for any reason the TAX levied and assessed upon EARNED INCOME by the TOWNSHIP 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 (1/2%) of the amount of the unpaid TAX for each month or fraction thereof during which the TAX remains unpaid, shall be added and collected. When suit is brought for the recovery of any such TAX, the person liable therefore shall, in addition, be liable for the cost of collection and interest and penalties imposed.

7.2 Fines and Penalties for Violation of ORDINANCE: See 53 PUR 6319, Sec. X.

- (a) Any person who fails, neglects, or refuses to make any declaration or return required by the 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 TAX OFFICE 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, 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 (\$500.00) for each offense, and costs, and, in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty (30) days.
- (b) Any person who divulges any information which is confidential under the provisions of the ORDINANCE, 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 (\$500.00) for each offense, and cost, and, in default or payment of said fines and costs to be imprisoned for a period of not exceeding thirty (30) days.
- (c) The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of the ORDINANCE.
- (d) The failure of any person to receive or procure forms required for making the declaration or returns required by the ORDINANCE shall not excuse him from making such declaration or return.

7.3 Applicability of the TAX

- (a) The TAX shall not apply:
  - 1. To any person as to whom it is beyond the legal power of the TOWNSHIP to impose the TAX herein provided for under the Constitution of the United States and the Constitution and Laws of the Commonwealth of Pennsylvania;
  - 2. To institutions or organizations operated for public, religious, educational or charitable purposes, to institutions or organizations not organized or

operated for private profit, or to trusts and foundations established for any of the said purposes.

- (b) This section shall not be construed to exempt any person who is an EMPLOYER from the duty of withholding the TAX at source from his employee and paying the amount withheld to the TOWNSHIP.
- (c) Any NONRESIDENT who is subject to a tax on earnings or NET PROFITS imposed by a political subdivision outside of the Commonwealth of Pennsylvania or imposed by any other state, shall not for that reason be exempt from the TAX imposed by the TOWNSHIP, except, as provided in Section 14, ACT 511 of 1965, where a reciprocity agreement exists.

\* \* \* \* \*

The foregoing REGULATIONS are hereby prescribed, adopted, and promulgated by the Board of Commissioners of the Township of Upper Dublin this 10<sup>th</sup> day of April, 1990.

ATTEST:

TOWNSHIP OF UPPER DUBLIN

\_\_\_\_\_  
Township Manager

\_\_\_\_\_  
H. William Gift, President  
Board of Township Commissioners