

# Borough of Lilly

LILLY, PENNSYLVANIA

Ordinance No. December 2011-4

*An Ordinance of the Borough of Lilly Levying a  
Tax on Earned Income and Net Profits; Requiring Tax  
Returns; Requiring Employers to Withhold and  
Remit tax; and Related Provisions.*

**WHEREAS**, the Local Tax Enabling Act (53 P.S. §6924.101, et. seq.) authorizes certain political subdivisions to levy, assess and collect a tax on salaries, wages, commissions, compensation, net profits and earned income referred to as the "earned income tax"; and

**WHEREAS**, Act No. 32 of 2008 amended and restated the Local Tax Enabling Act by establishing entities known as "tax collection districts" for the purpose of county-wide collection of earned income taxes and other taxes. The geographic boundaries of a tax collection district shall be coterminous with the county in which it is created and shall consist of municipalities and school districts located within the tax collection district; and

**WHEREAS**, Lilly Borough is located within the Cambria County tax collection district; and

**WHEREAS**, Act 32 established tax collection committees in each tax collection district which would govern the said tax collection districts; and

**WHEREAS**, the Cambria County Tax Collection Committee was established pursuant to Act 32 to govern the Cambria County tax collection district; and

**WHEREAS**, the Cambria County Tax Collection Committee has recommended to the municipalities and school districts within the Cambria County tax collection district that all earned income tax ordinances be updated to reflect the amendments to the Local Tax Enabling Act set forth by Act 32; and

**WHEREAS**, Lilly Borough intends to update its current earned income tax ordinance to reflect the amendments to the Local Tax Enabling Act set forth by Act 32; and

NOW THEREFORE, the Borough of Lilly Council does hereby **ORDAIN AND ENACT** as follows:

## **Section 1. Definitions .**

All terms defined in Local Tax Enabling Act shall have the meaning set forth therein. The following terms shall have meanings set forth herein:

- a. Collector. The person or entity appointed as tax officer pursuant to the Local Tax Enabling Act to collect the tax.
- b. Effective Date. January 1, 2012.
- c. Enactment. This Ordinance.
- d. Governing Body. The Borough of Lilly Council.
- e. Local Tax Enabling Act. The Local Tax Enabling Act, as set forth in 53 P.S § 6901 et seq. while such numberings and provisions remain in effect under Act 35 of 2008, and as set forth in 53 P.S §6924.101 et seq. when such numbering and provisions become effective under Act 32, and as amended in the future.
- f. Tax Collection District ("TCD"). Any tax collection district to which the Taxing Authority or any part of the Taxing Authority is assigned under the Local Tax Enabling Act.
- g. Tax Collection Committee ("TCC"). The tax collection committee established to govern and oversee the collection of earned income tax within the TCD under the Local Tax Enabling Tax.
- h. Tax. The tax imposed by this Enactment.
- i. Tax Return. A form prescribed by the collector for reporting the amount of Tax or other amount owed or required to be withheld, remitted or reported under this Enactment or the Local Tax Enabling Act.
- j. Tax Year. The period from January 1 to December 31.
- k. Taxing Authority. Lilly Borough.

## **Section 2. Imposition of Tax**

- a. General Purpose Resident Tax. The Taxing Authority hereby imposes a Tax for general revenue purposes at the rate of one percent (1%) on all earned income and net profits of individual residents of Taxing Authority.

- b. General Purpose Municipal Nonresident Tax. The Taxing Authority also imposes a Tax for general revenue purposes at the rate of one percent (1%) on earned income and net profits derived by an individual who is not a resident of the Taxing Authority from any work, business, profession or activity of any kind engaged in within the boundaries of the Taxing Authority.
- c. Ongoing Tax. The Tax shall continue at the above rates during the current Tax Year and each Tax Year thereafter, without annual re-enactment, until this Enactment is repealed or the rate is changed.
- d. Combined Tax Rate Applicable to Residents. Currently, the total rate applicable to residents of the Taxing Authority, including the tax imposed by the school district and municipality in which the individual resides is one percent (1%).
- e. Municipal Tax Rate Applicable to Nonresidents. Currently, the total rate applicable to nonresidents working within the Taxing Authority based on the municipal nonresident tax rate is one percent (1%).
- f. Local Tax Enabling Act Applicable. The tax is imposed under authority of the Local Tax Enabling Act and all provisions thereof that relate to a tax on earned income or net profits are incorporated into this Enactment. Any future amendments to the Local Tax Enabling Act that are required to be applied to a tax on earned income or net profits will automatically become part of this Enactment upon the effective date of such amendment, without the need for formal amendment of this Enactment, to the maximum extent allowed by 1 Pa.C.S.A. § 1937.

### **Section 3. Administration.**

The collection and administration of the tax provided for in this Ordinance shall be performed by the Tax Officer appointed by the Cambria County Tax Collection Committee (CCTCC"). Said Tax Officer shall receive such compensation for his services and expenses as determined from time to time by the CCTCC. Such Tax Officer shall have the powers and duties as provided for by Act 32 and the Local Tax Enabling Act.

### **Section 4. Severability.**

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

**Section 5. Purpose/Amendment and Restatement/Repeal.**

The primary purpose of this Enactment is to conform the earned income and net profits tax currently imposed to the Local Tax Enabling Act, as amended and restated by Act 32 of 2008, and to do so within the time frame required by Act 32. Any prior enactment imposing a tax on earned income or net profits of individuals is amended and restated in its entirety to read as stated in this Enactment. Any other prior enactment or part of any prior enactment conflicting with the provisions of this Enactment is rescinded insofar as the conflict exists. To the extent the same as any enactment in force immediately prior to adoption of this Enactment, the provisions of this enactment are intended as a continuation of such prior enactment and not as a new enactment. If this Enactment is declared invalid, any prior enactment levying a similar tax shall remain in full force and effect and shall not be affected by adoption of this Enactment. If any part of this Enactment is declared invalid, the similar part of any prior enactment levying a similar tax shall remain in effect and shall not be affected by adoption of this Enactment. The provisions of this Enactment shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish offense under the authority of any enactment in force prior to adoption of this Enactment. Subject to the foregoing provisions of this Section, this Enactment shall amend and restate on the Effective Date any enactment levying a tax on earned income or net profits in force immediately prior to the Effective Date.

**Section 6. Effective Date.**

This Ordinance shall be effective January 1, 2012. It is the intention of the Borough that this Ordinance shall provide procedural modifications to the previously adopted Earned Income Tax Ordinance, and no gap as to the imposition of the tax set forth herein should be inferred.

**ORDAINED and ENACTED** this sixth day of December, 2011.

**BOROUGH OF LILLY:**

By: Richard R. Sweeney  
**Richard R. Sweeney - President**

Attest: \_\_\_\_\_ (Seal)  
**Claudine M. Falger - Secretary**

**APPROVED** this \_\_\_\_\_ day of December, 2011,

Patrick Podrasky  
**Patrick Podrasky - Mayor**