

NOTICE OF PROPOSED ORDINANCE NO. 445
EARNED INCOME TAX

Notice is hereby given that pursuant to the authority of the Local Tax Enabling Act {Act of December 31, 1965, P.L. 1257; 53 P.S. §6901, et seq.} The Borough of Susquehanna Depot intends to consider for adoption an ordinance levying an earned income tax of one percent {1%} on resident and non-residents who work within the Borough of Susquehanna Depot.

The earned income tax will impose a tax of one percent {1%} on salaries, wages, commissions, bonuses incentive payments, fees, tips and other compensations earned by the residents of and those non-residents who work in the Borough of Susquehanna Depot on or after January 1, 2007, and on the net profits earned on the operation of a business profession or other activity by those who conduct the business, profession or other activity in the Borough of Susquehanna Depot on or after that date. The ordinance will require the filing of returns, providing of information by employers and those subject to the tax and collection of the tax by the employers at the source. The ordinance will also provide for the administration and enforcement of the tax. The total revenue anticipated to be collected will be between \$ 100,000.00 and \$110,000.00 and used for general purposes. A copy of the proposed ordinance is available for public viewing at each of the following locations: 1). Susquehanna Borough Office, 284 Erie Blvd., Susquehanna, PA 18847, 2) Law Library, Susquehanna County Courthouse, 2nd Floor, Montrose, PA 18801, 3) Susquehanna County Transcript, 214 Exchange Street, Susquehanna, PA 18847

The ordinance will be considered for adoption at the meeting of the Council of the Borough of Susquehanna Depot scheduled for Tuesday, November 21, 2006 at 7:00 p.m. ^{6 p.m.} at the Borough Building, 284 Erie Blvd., Susquehanna, PA 18847

Borough of Susquehanna Depot
Susquehanna Borough Council
Ann Stewart, Borough Secretary

~~Ann Stewart~~
Ordinance # 445 Pass.
did not
11/14/06
Ann Stewart
11/14/06

ORDINANCE NUMBER # 445

AN ORDINANCE OF THE BOROUGH OF SUSQUEHANNA DEPOT, SUSQUEHANNA COUNTY, PENNSYLVANIA, IMPOSING AN EARNED INCOME AND NET PROFITS TAX OF ONE PERCENT IN ACCORDANCE WITH SECTIONS 69134 OF THE PENNSYLVANIA LOCAL TAX ENABLING ACT; PROVIDING FOR THE APPOINTMENT OF AN EARNED INCOME TAX OFFICER; AUTHORIZING SUIT FOR COLLECTION OF UNPAID TAXES; REQUIRING NOTIFICATION OF CHANGE IN OCCUPANCY OF BUILDINGS LOCATED WITHIN THE BOROUGH AND PROVIDING FOR INTEREST AND PENALTIES AND FINES FOR VIOLATIONS OF THE REQUIREMENTS OF THIS ORDINANCE.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Council members of the Borough of Susquehanna Depot, Susquehanna County, Commonwealth of Pennsylvania, and it is hereby enacted and ordained by its authority as follows:

The following is hereby adopted as the Earned Income Tax Ordinance of the Borough of Susquehanna Depot:

Chapter 102 - Article III

1. Incorporation of statute.

The provisions of Section 6913 of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 53 P .S. Sections 6901 through 6924 (1982), as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, are incorporated herein by reference hereto; except to the extent that options are provided in said Section 6913, this ordinance designates the option selected and except as and where hereinafter specifically provided otherwise.

2. Definitions.

As used in this ordinance, the following terms shall have the meanings indicated:

ASSOCIATION - A partnership, limited partnership, or any other unincorporated group of two or more persons.

BUSINESS - An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit, or ordinarily conducted for profit, whether by persons, partnership, association or any other entity.

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.

CURRENT YEAR - The calendar year for which the tax is levied.

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 the domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntary 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 association, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME - Compensation as determined under section 303 of the act of March 4, 1971 (P.L. 6, No.2), known as the "Tax Reform Code of 1971," as amended and regulations in 61 Pa. Code Pt. I Subpt. B Art. V (relating to personal income tax), as amended, not including, however, wages or compensation paid to individuals on active military service. Employee business expenses are allowable deductions as determined under Article III of the "Tax Reform Code of 1971" as amended. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

INCOME TAX OFFICER OR OFFICER - Person, public employee or private agency designated by governing body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation.

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, or any other entity employing one or more persons for a salary, wage, commission or other compensation.

NET PROFITS - The net income from the operation of a business, profession, or other activity, except corporations, determined under section 303 of the act of March 4, 1971 (P.L. 6, No.2) known as the "Tax Reform Code of 1971," as amended, and regulations in 61 Pa. Code Pt. I Subpt. B Ali. V (relating to personal income tax), as amended. The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

(1) any interest earning generated from any monetary accounts or investment instruments from the farming business;

(2) any gain on the sale of farm machinery;

(3) any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and

(4) any gain on the sale of other capital assets of the farm.

NONRESIDENT - A person, partnership, association or other entity domiciled outside the taxing district.

PERSONS or INDIVIDUALS - A natural person.

PRECEDING YEAR - The calendar year before the current year.

RESIDENT - A person, partnership, association or other entity domiciled in the taxing district.

SUCCEEDING YEAR - The calendar year following the current year.

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.

3. Imposition of tax.

A tax at the rate of 1 % on each dollar is hereby imposed on all earned income and net profits, as defined herein, earned by residents of the Borough of Susquehanna Depot and on all earned income and net profits earned by nonresidents of the Borough of Susquehanna Depot who work or are employed in the Borough of Susquehanna Depot. This tax shall become effective January 1, 2007 and shall remain in effect thereafter on a calendar year basis without annual reenactment unless the rate of tax is subsequently changed.

4. Declaration and payment of tax.

A. Net profits.

1. Every taxpayer making net profits shall on or before April 15 of each year make and file with the income tax officer, on a form prescribed by the income tax 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 income tax 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 of the current year, September 15 of the current year, and January 15 of the succeeding year, respectively.

2. Any taxpayer who first anticipates any net profit after April 15, of the current year, shall make and file the declaration herein above 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 income tax officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.

3. On or before April 15 of the succeeding year, every taxpayer shall make and file a final return on a form prescribed by the income tax officer showing the amount of net profits earned, the total amount of tax due and the total amount of tax paid thereon. At the time of filing the return, the taxpayer shall pay to the income tax officer the balance of the tax due, or shall make demand for refund or credit in the case of overpayment. An incomplete or improperly completed tax return shall be considered as not having been filed. Each final return shall be substantiated and supported by such United States Federal Income Tax Return forms as required by the income tax officer, which shall at least include a copy of the federal W -2 form in the case of an earned income taxable, and Schedule C of the federal return as to a net profits taxable.

4. The income tax officer is authorized to provide for the making and filing, on a form prescribed or approved by the income tax officer, of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration herein above required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.

5. Every taxpayer who discontinues business prior to December 31, of the current year, shall, within 30 days after the discontinuance of business, file his final return as herein above required and pay the tax due.

B. Earned income.

1. Every taxpayer shall, on or before April 15, of the succeeding year, make and file with the income tax 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 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 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. An incomplete or improperly completed tax return shall be considered as not having been filed. Each final return shall

be submitted and supported by such United States Federal Income Tax Return forms as required by the income tax officer, which shall include a copy of the federal W-2 form in the case of an earned income taxable, and Schedule C of the federal return as to a net profit taxable.

2. Earned income not subject to withholding. Every taxpayer who is employed for a salary, wage, commission, or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the income tax officer on a form prescribed or approved by the income tax officer, a quarterly return 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, 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 income tax officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the income tax officer the amount of tax shown as due thereon.

5. Collection at source.

A. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within Borough of Susquehanna Depot 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 Borough of Susquehanna Depot 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 income tax 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 income tax officer and employers, shall show the name and Social Security number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivision imposing the tax upon such employee and the political subdivision in which the employee resides, 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.

B. An employer who, for two of the preceding four quarterly returns, 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 income tax officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the income tax 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 income tax 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, and the amount of tax paid to the income tax 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 30 days after the discontinuance of business, file the returns and withholding statements herein above required and pay the tax due.

E. Except as otherwise provided, every employer who willfully or negligently fails or omits to make the deductions required by this section 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 requirement of the sections relating to the filing of declarations and returns.

6. Administration.

The earned income tax officer shall be selected from time to time by resolution of the Council Members, and shall receive such compensation for his services and expenses as determined from time to time by, the Council Members. Such income tax officer shall have the powers and duties, and shall be subject to the penalties, as provided in Section 6913, Subdivisions V, VI, and VII, of the Local Tax Enabling Act, as amended.

7. Powers and duties of income tax officer; bond.

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. Each income tax officer, before entering upon his official duties, shall give and acknowledge a bond to the Borough of Susquehanna Depot. If the Council Members shall, by ordinance, designate any bond previously given by the income tax officer as adequate, such bond shall be sufficient to satisfy the requirements of this subsection.

1. Each bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this commonwealth and duly licensed by the Insurance Commission of this commonwealth.

2. Each bond shall be conditioned upon the faithful discharge by the income tax 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 of 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.

Each such bond shall be taken in the name of the appointing authority or authorities, and shall be for the use of the political subdivision or political subdivisions appointing the income tax officer, 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 principle on the bond.

C. The income tax officer charged with the administration and enforcement of the provisions of this ordinance 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 including provisions for the reexamination and correction of declarations and returns and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in case of overpayment, for any period of time not to exceed six years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of this ordinance. No rules or regulations of any kind shall be enforceable unless they have been approved by resolution of the Council Members of Borough of Susquehanna Depot. A copy of such rules and regulations currently in force shall be available for public inspection.

D. The income tax officer shall refund, on petition of and proof by the taxpayer, earned income tax paid on the taxpayers ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's authority.

E. The income tax 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 income tax 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 income tax officer reasonably believes to be an employer or taxpayer, is hereby directed and required to give to the income tax 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 income tax officer, his agents, or by any other official or agent of the taxing district, 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 income tax officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

8. Suit for collection of tax.

A. The income tax officer may sue in the name of the Borough of Susquehanna Depot for recovery of taxes due and unpaid under this ordinance.

B. Any suit brought to recover the tax imposed by this ordinance shall begin 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 this ordinance, 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 income tax officer, reveals a fraudulent evasion of taxes, there shall be no limitation.

3. In the case of substantial understatement of tax liability of 25% or more and no fraud, suit shall begin within six years.

4. Where any person has deducted taxes under the provisions of this ordinance, and has failed to pay the amounts so deducted to the income tax officer, or where any person has willfully 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 Borough of Susquehanna Depot from recovering delinquent taxes by any other means provided by law.

C. The income tax 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 appears that any part of the refund was induced by fraud or misrepresentation of a material fact.

D. Compliance with other ordinances. Compliance with the requirements of this section shall not relieve any individual or entity of the necessity of compliance with the requirements of the Borough of Susquehanna Depot Ordinance which sets forth requirements for certificates of occupancy or any other applicable Borough Ordinances that are or may be hereinafter enacted.

9. Interest and penalties.

If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of 1/2 of 1 % of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

10. Violations and penalties; fines.

A. Any person who fails, neglects, or refuses to make any declaration or return required by this 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 income tax 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 this ordinance shall, upon conviction thereof before any District Justice, or Court of Competent Jurisdiction in the County, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and, in default of payment of said fine and costs, to be imprisoned for a period not exceeding 30 days. Each violation shall constitute a separate offense, punishable by a like fine or imprisonment for each day of continued violation.

B. Any person who divulges any information which is confidential under the provisions of this ordinance shall, upon conviction thereof before any District Justice, or Court of Competent Jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and, in default of payment of said fines and costs, to be imprisoned for a period not exceeding 30 days.

C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this ordinance.

D. The failure of any person to receive or procure forms required for making the declaration or returns required by this ordinance shall not excuse him from making such declaration or return.

E. Any person or entity which fails to comply with the reporting requirements of Section 9 of this ordinance, shall, upon conviction thereof before any District Justice or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and, in default of payment of said fines and costs, to be imprisoned for a period not exceeding 30 days.

2. All ordinances or parts thereof inconsistent herewith are repealed, rescinded, canceled and annulled.

3. If any section, subsection, sentence, or clause of this ordinance is held, for any reason, to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance.

4. This Ordinance shall take effect immediately upon adoption.

DULY ENACTED THIS _____ DAY OF _____, 2006 BY THE
COUNCIL MEMBERS OF BOROUGH OF SUSQUEHANNA DEPOT.

BY: _____
Tom Kelly, President

Attest: _____
Ann Stewart, Secretary

SEAL

Borough of Susquehanna Depot

Council Meeting

Minutes of November 14th, 2006

The regularly scheduled meeting of the Council of Susquehanna Depot was called to order at 6:00pm by President Tom Kelly, followed by the Pledge of Allegiance.

Councilmen present: John Bronchella, Bill Kuiper, Shane Lewis, Mike Matis, and Ron Whitehead. Councilman Roy Williams was absent. Mayor Denise Reddon and Secretary Ann Stewart were also present.

Guests present: Barbara Whitehead (Transcript), Helen Foster (Independent), and standing room only residents.

MOTION: by Ron Whitehead, seconded by John Bronchella, to approve the agenda with one correction: move Public Comment to after the Secretary's Report. All were in favor; motion carried.

MOTION: by Ron Whitehead, seconded by Shane Lewis, to approve the minutes of the previous meeting as read. All were in favor; motion carried.

MOTION: by Mike Matis, seconded by Shane Lewis, to approve the bill list with the stipulation that the video installation be paid out of Grant monies. By roll call: John Bronchella, aye; Tom Kelly, aye; Bill Kuiper, aye; Shane Lewis, aye; Mike Matis, aye; Ron Whitehead, aye. Motion carried.

MOTION: by Mike Matis, seconded by Shane Lewis, to Not Pass the EIT Tax Ordinance #445, which was to be up for adoption on November 21st. All were in favor; motion carried.

MOTION: by Mike Matis, seconded by Ron Whitehead, to Table Ordinances 442 and 443 (Residential and Industrial Property Relief) to await further investigation. All were in favor; motion carried.

Upon reviewing the bill list, there was a question on the ammo purchased by the Police department which was approximately \$400.00 over the amount budgeted for 2006. Mike Matis stated that it was