

**COUNCIL BILL NO. 1867**

**INTRODUCED BY: James Aughenbaugh**

**ORDINANCE NO. 1771**

**AN ORDINANCE**

**OF THE CITY OF DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, REENACTING, RESTATING AND AMENDING ITS EARNED INCOME TAX ORDINANCE TO ESTABLISH CONFORMITY WITH THE LOCAL TAX ENABLING ACT AS AMENDED BY ACT 32 OF JULY 2, 2008; LEVYING A TAX ON EARNED INCOME AND NET PROFITS; REQUIRING TAX RETURNS; REQUIRING EMPLOYERS TO WITHHOLD AND REMIT TAX; AND RELATED PROVISIONS.**

**WHEREAS**, the City of DuBois, Clearfield County, Pennsylvania (hereinafter referred to as the "City of DuBois") previously enacted its Ordinance No. 1676 (hereinafter the "Prior EIT Ordinance"), imposing a tax at the rate of one percent (1%) for general revenue purposes on earned income; and

**WHEREAS**, on July 2, 2008, the Pennsylvania Legislature enacted Public Law 197, Act No. 32 (hereinafter "Act 32"), which Act 32, *inter alia*, provided for the consolidated collection of local income taxes within a tax collection district established in each county under Section 504 of Act 32 for tax years beginning not later than on and after January 1, 2012; and

**WHEREAS**, the City desires to re-enact, restate and amend in its entirety the Prior EIT Ordinance relating to the imposition and collection of an earned income tax by the City of DuBois in order to conform with the provisions of Act 32.

**NOW, THEREFORE**, the City of DuBois does hereby ordain that its Prior EIT Ordinance is hereby re-enacted, restated and amended in its entirety to read as follows:

**SECTION 1. DEFINITIONS**

For purposes of this Ordinance, all terms defined in the Local Tax Enabling Act, 53 P.S. Sec. 6924.101, *et seq.*, shall have the meanings set forth therein, except as modified below. The following terms shall have the meaning set forth herein:

- a. **Tax Officer.** The person or entity appointed as tax officer pursuant to the Local Tax Enabling Act to collect the Tax in the TCD.
- b. **Effective Date.** January 1, 2012.
- c. **Local Tax Enabling Act.** The Local Tax Enabling Act, 53 P.S. Sec 6924.101, *et seq.*, and as amended in the future, including any regulations adopted by the Department of Community and Economic Development thereunder.
- d. **TCD.** The Clearfield County Tax Collection District, or any future tax collection district, to which the City or any part of the City is assigned under the Local Tax Enabling Act.
- e. **TCC.** The Tax Collection Committee established to govern and oversee the collection of earned income tax within the TCD under the Local Tax Enabling Act.
- f. **Tax.** The tax imposed by this Ordinance.

- g. **Tax Return.** A form prescribed by the Tax Officer for reporting the amount of Tax or other amount owed or required to be withheld, remitted, or reported under this Ordinance or the Local Tax Enabling Act.
- h. **Tax Year.** The period from January 1 to December 31.

**Taxpayer.** A person or business required under this Ordinance or the Local Tax Enabling Act to file a return of an income tax or to pay an income tax.

## SECTION 2. IMPOSITION OF TAX

- a. **General Purpose Resident Tax.** The City hereby imposes a Tax for general revenue purposes at the rate of one percent (1%) on earned income and net profits of individual residents of the City.
- b. **General Purpose Municipal Nonresident Tax.** The City 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 nonresident from any work, business, profession, or activity, of any kind engaged in within the boundaries of City.
- 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 Ordinance is repealed or the rate is changed.
- d. **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 Ordinance. 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 Ordinance upon the effective date of such amendment, without the need for formal amendment of this Ordinance, to the maximum extent allowed by 1 Pa. C.S.A. Sec. 1937.
- e. **Applicable Laws, Regulations, Policies, and Procedures.** The Tax shall be collected and administered in accordance with (1) all applicable laws and regulations; and (2) policies and procedures adopted by the TCC or by the Tax Officer in conformity with the Local Tax Enabling Act. This includes any regulations, policies, and procedures adopted in the future to the maximum extent allowed by 1 Pa. C.S.A. Sec. 1937.

## SECTION 3. NO EXEMPTION FROM TAX

Although credits and deductions against Tax are permitted under certain circumstances as provided in applicable law and regulations, no individuals are exempt from Tax based on age, income, of other factors.

## SECTION 4. INDIVIDUAL TAX RETURNS AND PAYMENTS

Every Taxpayer receiving earned income or earning net profits in any Tax Year shall file Tax Returns and pay Tax in accordance with the Local Tax Enabling Act and the policies and procedures of the TCC and Tax Officer. Tax imposed on net profits and all earnings not subject to withholding at source must be reported and paid on a quarterly basis in accordance with the Local Tax Enabling Act. A Taxpayer is required to file a return even if no Tax payment is due and owing.

**SECTION 5. EMPLOYER WITHHOLDING, REMITTANCE, AND TAX RETURNS**

Every employer shall register, withhold, and remit Tax, and file Tax Returns in accordance with the Local Tax Enabling Act and the policies and procedures of the TCC and Tax Officer.

**SECTION 6. TAX OFFICER**

The Tax will be collected from individuals and employers by the Tax Officer. The Tax Officer is authorized to file an action in the name of the City for the recovery of income taxes due to the City and unpaid. Nothing in this section shall affect the authority of the City to file an action in its own name for collection of income taxes under the Local Tax Enabling Act.

**SECTION 7. INTEREST, PENALTIES, COSTS AND FINES**

Individuals and employers are subject to interest, penalties, costs, and fines in accordance with the Local Tax Enabling Act, including costs of collection imposed by the Tax Officer in accordance with authorization by the TCC.

**SECTION 8. SEVERABILITY**

The provisions of this Ordinance 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 Ordinance. It is declared to be the intention of the governing body of the City that this Ordinance would have been adopted if such invalid or unconstitutional provision had not been included.

**SECTION 9. PURPOSE/REPEAL**

The primary purpose of this Ordinance is to confirm the earned income and net profits tax imposed pursuant 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 ordinance or part of any prior ordinance conflicting with the provisions of this Ordinance is rescinded insofar as the conflict exists. To the extent the same as any ordinance in force immediately prior to adoption of this Ordinance, the provisions of this Ordinance are intended as a continuation of such prior ordinance and not as a new ordinance. If this Ordinance is declared invalid, any prior ordinance levying a similar tax shall remain in full force and effect and shall not be affected in any manner by adoption of this Ordinance. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall such provision 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 ordinance in force prior to adoption of this Ordinance. Subject to the foregoing provisions of this Section, this Ordinance shall supersede and repeal on the Effective Date any ordinance levying a tax on earned income or net profits in force immediately prior to the Effective Date.

**SECTION 10. CONSTRUCTION**

This Ordinance is intended to be consistent with the Local Tax Enabling Act, and to include all necessary authorizations to permit the Tax Officer to take such Tax collection, administration, disbursement, enforcement and other activities as authorized by the Local Tax Enabling Act, subject to the policies and procedures of the TCC.

**SECTION 11. EFFECTIVE DATE**

The provisions of this Ordinance shall become effective on January 1, 2012, and shall apply to earned income received or earned and net profits earned or made by a taxpayer during calendar year 2012 and each year thereafter without annual re-enactment unless the rate of tax is subsequently changed. Changes in the rate of tax shall become effective on the date specified in the ordinance imposing such change.

ATTEST:

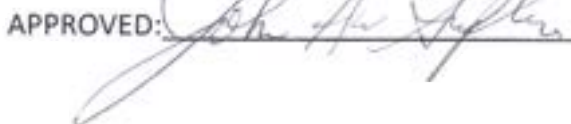
  
\_\_\_\_\_  
City Secretary

CITY OF DUBOIS

  
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Gary Gilbert  
Mayor and President of Council

PASSED BY COUNCIL:

December 22, 2011

APPROVED:   
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