

ARTICLE I
Earned Income Tax
 [Adopted 12-9-1965 by Ord. No. 55]

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 § 78-1. Definitions; word usage.

- A. ¹Unless otherwise expressly stated, the following terms shall, for purpose of this article, have the meaning herein indicated except where the context indicates or requires a different meaning:

ASSOCIATION — A partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.

BOROUGH OF CALLERY — The Borough of Callery, Butler County, Pennsylvania.

BUSINESS — Any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership association or other entity.

COMPENSATION EARNED or COMPENSATION PAID or EARNINGS — All salaries, wages, commissions, bonuses, incentive payments, and/or other forms of compensation or remuneration, in cash or in property, received by an individual and paid, directly or through an agent, by an employer for services rendered.

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.

EMPLOYER — Any individual, partnership, association, corporation, governmental body or unit or agency or any other entity, who, or that employs one or more persons on a salary, wage, commission, or other compensation basis.

NET PROFITS — The net gain from the operation of a business, profession, or enterprise, except any corporation which is exempt from this tax under Act of Assembly No. 481, approved June 25, 1947, as amended, after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used, and without deduction of taxes based on income.

PERSON — Natural person, partnership, association, firm or fiduciary. Whenever used in any clause prescribing and imposing a penalty, the term "person," as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

RESIDENT — An individual, partnership, association, or other entity domiciled in the Borough of Callery, Butler County, Pennsylvania.

TAXABLE PERIOD — The calendar year, a fiscal year, or period of less than 12 months for which a return is required to be filed by a taxpayer.

TAXPAYER — A person, whether an individual, partnership, association, or any other entity, required hereunder to file a return on earnings or net profits or to pay a tax thereon.

- B. The singular shall include the plural and the masculine shall include the feminine and the neuter.

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§ 78-2. Imposition of tax.

- A. The following annual taxes are hereby imposed for general revenue purposes: An annual tax of 1% of all compensation earned on and after the 1st of January, 1966, by residents of the Borough of Callery, Butler County, Pennsylvania, and of the net profits earned on and after the 1st day of January, 1966, of businesses, professions, and other activities conducted by residents of the said Borough of Callery. The taxes levied under the first part of this section shall relate to and be imposed upon compensation paid by an employer or on his behalf to any person who is employed by or renders services to him. The taxes levied under the second part of this section shall relate to and be imposed upon the net profits of any business, profession, or enterprise carried on by any person or owner or proprietor, either individually or in association with some other person or persons. Said tax shall first be levied, collected and paid with respect to the salaries, wages, and commissions and other compensations earned on and, after the first of January, 1966, and with respect to the net profits of business, professions or other activities earned during the period from January 1, 1966, to December 31, 1966.
- B. Provided, however, that where the fiscal year of a business, profession or other activity differs from the calendar year, the tax shall be applicable only to that part of the net profits for the fiscal year as shall be earned on and after the first of January 1966.

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§ 78-3. Collector.

- A. A Collector of Income Tax shall be elected annually by the Borough of Callery, Butler County, Pennsylvania, to serve during the calendar year, or part thereof, who shall receive such compensation for his services as determined by the Borough of Callery.
- B. The Income Tax Collector is hereby designated receiver of the taxes imposed by this article. He shall collect and receive all such taxes, shall furnish a receipt for their payment, and shall keep a record showing the amount received by him from each taxpayer under this article and the date of each receipt. The Income Tax Collector is empowered to prescribe rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this article including provisions for the re-examination and correction of returns and payments, subject to the approval of the Solicitor and the Borough of Callery. Such rules and regulations shall be inscribed by the Income Tax Collector in a book kept for that purpose and open to the inspection of the public.

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§ 78-4. Filing of return.

- A. Every person whose earnings or profits are subject to the tax imposed by this article shall, on or before April 15 of every year, or such other times as designated by the regulations, beginning in the year 1967, make and file a return with the Income Tax Collector. Such returns shall be filed on a form prescribed by the Income Tax Collector, furnished at the expense of the Borough of Callery, and obtained from the Income Tax Collector. The information on such return shall include the name and address of the taxpayer, his place of employment or business, the aggregate amount of compensation or net profits earned by him during the preceding year and subject to such tax, the amount of tax due to the Borough of Callery under this article, the amount of tax on salaries, wages, commissions, and other compensation or net profits paid by such taxpayer during the period covered by such return to the Borough of Callery, and/or to any other political subdivision of the Commonwealth of Pennsylvania, together with such other pertinent information as may be required.
- B. Provided, however, that where a return is made for a fiscal year or for any other period different from a calendar year, such return shall be made within 75 days after the close of the fiscal year or other period.
- C. The person making such a return shall, at the time of the filing thereof, pay to the Income Tax Collector the amount of tax as shown to be due thereon.
- D. Provided further, however, that where any portion of the tax so due shall have been deducted at the source and shall have been paid to the Income Tax Collector by the person making such deduction pursuant to § 78-5 of this article, credit for the amount so paid shall be deducted from the amount to be due and only the balance, if any, shall be due and payable at the time of filing said return.
- E. Provided, further, that in any case where the sole income of any person subject to tax under this article is in the form of compensation paid by an employer and where the entire tax due by such employee has been deducted by his employer and return thereof made to the Income Tax Collector, such employee shall not be required to file a return thereof, except as may be required under the rules and regulations.

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§ 78-5. Deductions by employers.

- A. Every employer within the Borough of Callery shall deduct, monthly or more frequently than monthly, at the time of payment of compensation due by him to an employee, the tax of 1% of the amount of compensation for such period. Such employer shall make a return and pay over to the Income Tax Collector the amount of tax so deducted 30 days after each quarter year computed on a calendar year basis. Such return shall be on a form prescribed by the Income Tax Collector and approved by the Solicitor and the Borough of Callery, procured at the expense of the Borough of Callery, and furnished by or obtained from the Income Tax Collector. Said return shall set forth the name and residence of each employee subject to this tax, employed during all or part of the preceding quarter period of the year, the amount of compensation earned by each such employee during the preceding quarter period of the year, and any other pertinent information that may be required.

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- B. Provided, however, that the failure or omission by an employer residing within the Borough of Callery to deduct such tax and to make such return to the Income Tax Collector shall not relieve any employee from the payment of such tax and the compliance with such regulations, with respect to making returns and payment thereof, as may be established under this article or by virtue thereof.

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§ 786. Authority to examine records; confidentiality.

- A. The Income Tax Collector or any other person designated by the Borough of Callery for the purpose is hereby authorized to examine the books, papers, and records of any employer or supposed employer or of any taxpayer or supposed taxpayer in order to verify the accuracy of any return made, or, if no return is made, to ascertain the amount of tax due by any person under this article. Every such employer or supposed employer or taxpayer or supposed taxpayer is hereby directed and required to give to the Income Tax Collector or such other authorized person the means, facilities and opportunity for such examinations and investigations as are hereby authorized. The Income Tax Collector is hereby authorized to examine any person under oath concerning any income which was or should have been returned for taxation, and to this end the Income Tax Collector may compel the production of books, papers, and records and the attendance of all persons before such Income Tax Collector, whether as parties or witnesses, whom the Income Tax Collector believes to have knowledge of such income.
- B. Any information gained by the Income Tax Collector or any other employee, agent or other official of the Borough of Callery as a result of any returns, investigations, hearings or verifications required or authorized by this article shall be confidential, except for official purposes, and except in accordance with proper judicial order, or as otherwise provided by law. Any disclosure of any such information, contrary to the provisions of this section shall constitute a violation of this article and any person divulging such information, whether or not at the time of divulging it, a Collector, employee, agent or other official, as aforesaid, shall be guilty of a misdemeanor of the third degree and upon conviction shall be fined not more than \$2,500, and costs for each offense, or be imprisoned for not more than one year or both. And if the offender be an officer or employee of the Borough of Callery, Butler County, Pennsylvania, he shall be dismissed from office or discharged from employment.²

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§ 787. Board of Appeal and Review.

- A. A Board of Appeal and Review consisting of three members shall be elected by the Borough of Callery. The members of the Board of Appeal and Review shall receive such compensation for their services as the Borough of Callery shall determine.
- B. Any person dissatisfied with any ruling or decision of the Tax Collector, which is made under authority conferred by this article, may appeal therefrom to the Board of Appeal and Review in accordance with the Local Taxpayers Bill of Rights,³ as follows: the taxpayer shall file an appeal within three years after the due date for filing the report as extended or

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

³ Editor's Note: See 53 Pa.C.S.A. § 8421 et seq.

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within one year after actual payment of the tax, whichever is later; if no report is required the petition shall be filed within three years after the due date for payment of an eligible tax or within one after the actual payment, whichever is later; an appeal to a deficiency assessment must be filed within 90 days from the the date of assessment. The Board of Appeal and Review shall, on hearing, have jurisdiction and authority by the vote of a majority of said Board to affirm, reverse, or modify any such ruling or decision or any part thereof. A majority of the members of the Board of Appeal and Review shall constitute a quorum. The Board of Appeal and Review shall adopt its own procedural rules and shall keep a record of its transactions. All hearings of the Board shall be conducted privately and the provisions of § 78-6 hereof with reference to the confidential character of information shall apply to such matters as may be heard before the Board of Appeal and Review on appeal.⁴

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§ 78-8. Interest and penalty on unpaid taxes.

All taxes, imposed by this article, remaining unpaid after they shall have become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of 6% per annum, and the persons from whom such taxes are due shall be further liable to a penalty of 1/2 of 1% of the amount of the unpaid tax for each month or fraction of a month for the first six months of nonpayment.

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§ 78-9. Recovery of unpaid taxes.

All taxes imposed by this article, together with all interest and penalties, shall be recoverable by the Solicitor as other debts of like amount are recoverable. Upon the failure of any taxpayer to file a return as required by this article, the Tax Collector is authorized to make an investigation to ascertain the amount of tax due by the taxpayer, and is hereby authorized to assess such taxpayer the amount which he deems is due the Borough of Callery. The taxpayer shall be given notice of the assessment which shall be prima facie the amount of tax due the Borough of Callery.

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§ 78-10. Violations and penalties.⁵

Any taxpayer, employer or person who shall fail, neglect, or refuse to make any return required by this article, or any employer who shall refuse to deduct and withhold the tax, or any taxpayer or employer who shall refuse to pay the tax, penalties, and interest imposed by this article, or any person who shall refuse to permit the Tax Collector, or any duly authorized agent or employee, to examine his books, records, papers, or who shall knowingly make any incomplete, false, or fraudulent return, or who shall attempt to do anything whatever to evade payment of the whole or any part of the tax, shall be guilty of a summary offense and upon conviction shall be fined not more than \$500 and costs for each offense, and in default of payment of such fine and costs, shall be imprisoned for not more than 30 days. The failure of

⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁵ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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anyone required to file a return to receive or procure a return form shall not excuse him from making a return or from paying the tax.

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§ 78-11. Applicability.

This article shall not apply to any person or property as to whom or which it is beyond the legal power of the Borough of Callery to impose the tax or duties herein provided for.

ARTICLE II - see ordinance 2018-22
Per Capita Tax
[Adopted 12-18-1969 by Ord. No. 62]

§ 78-12. Imposition of tax. [Amended 3-7-1974 by Ord. No. 69]

There is hereby levied and assessed for general revenue purposes a five-dollar per capita tax on each and every resident over the age of 18 years of age in the Borough of Callery, Butler County, Pennsylvania, for the fiscal year commencing the first day of January 1974, and ending the first Monday of January 1975.

§ 78-13. Residency list.⁶

The duly elected Assessor of the Borough of Callery shall annually prepare a list of residents of said Borough over 18 years of age, and return the same with the other taxable property as provided by law, and shall be certified to Council of the Borough of Callery.

§ 78-14. Collection and enforcement.

The assessment, collection, notices, exonerations, reports of omitted names, liability of husband for wife's tax, collection from employer, Collector, penalty for refusal or failure to pay tax, and the compensation of the Collector shall all be as provided in the Local Tax Collection Law of 1945, P.L. 1050, as amended,⁷ it being the intent and purpose of this article that the collection and enforcement of this tax shall be subject to and controlled by all of the provisions of said Local Tax Collection Law.

§ 78-15. Collector.

The local Tax Collector of the Borough of Callery, Butler County, Pennsylvania, shall collect said tax.

⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

⁷ Editor's Note: See 72 P.S. § 5111.1 et seq.