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ARTICLE 313  
Earned Income Tax

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EDITOR'S NOTE: Act 160 of 1967 removes from Act 511, the Local Tax Enabling Act, the provisions of Section 4.5 and 7 of the Act relating to annual re-enactments of taxes and specifies that every tax levied under the provisions of the Act would continue in force on a calendar or fiscal year basis without annual reenactment unless the rate of the tax was subsequently changed.

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**313.01 DEFINITIONS**

The following words and phrases, when used in a provision of this Article, unless otherwise distinctly expressed herein or manifestly incompatible with the intent of the particular provision, shall be construed as follows:

- a.) "Association": A partnership, limited partnership, or any other unincorporated group of two or more persons.
- b.) "Business": An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association or any other entity.
- c.) "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.
- d.) "Current Year": The calendar year for which the tax is levied.

- e.) "Domicile": The place where one lives and has his permanent home to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is a fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the place in which a man has voluntarily fixed the habitation of himself and his family, 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.
- f.) "Earned Income": Salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in case 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 rising under workmen's compensation acts, occupational disease acts and 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 made 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.
- g.) "Income Tax Officer or Officer": Person, public employee or private agency designated by governing body to collect and administer the tax on earned income and net profits.
- h.) "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.
- i.) "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.
- j.) "Nonresident": A person, partnership, association or other entity domiciled outside the taxing district.

- k.) "Person or Individual": A natural person.
- l.) "Preceding year": The calendar year before the current year.
- m.) "Resident": A person, partnership, association or other entity domiciled in the taxing district.
- n.) "Succeeding year": The calendar year following the current year.
- o.) "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.

(Ord. 2 of 1966, Art. I, Sect. 1, Passed 5-28-66)

### 313.02 AUTHORITY FOR TAX

This Article is enacted under the authority of the provisions of:

- a.) The Local Tax Enabling Act, being the Act of Assembly of the Commonwealth of Pennsylvania of December 31, 1965, P.L. 1257 and the amendments and supplements thereto (53 P.S. Section 6901 et seq.) as to the continuation of the existing one (1%) per centum rate imposed and levied under Article III on non-residents; and
- b.) The Local Tax Enabling Act, being the Act of Assembly of the Commonwealth of Pennsylvania of December 31, 1965, P.L. 1257 and the amendments and supplements thereto (53 P.M. Section 6901 et seq.); and the Charter of the City of Franklin and the Home Rule Charter and Optional Plan Law, being the Act of Assembly of the Commonwealth of Pennsylvania of April 13, 1972, P.L. 184 and the amendments and supplements thereto (53 P.S. Section 1-101 et seq.) as to the one and three-quarters (1.75%) per centum rate imposed and levied upon the residents of the City of Franklin under Article III. (Ord. 2 of 1966, Art. II, Sect. 1, Passed 5-28-66; Ord. 19 of 1977, Sect. 1, Passed 12-19-77; Ord. 13 of 1985, Sect. 1, Passed 12-16-85; Ord. 14 of 1986, Sect. 1, Passed 12-15-86)

### 313.03 TAX LEVY

An annual tax for the year 1986 and each calendar year thereafter be, and is hereby, levied effective January 1, 1986, for general revenue purposes of the City of Franklin on earned income and net profits, paid and/or received on and after January 1, 1986:

- a.) By any resident of the City of Franklin at the rate of one and three-quarters (1.75) percentum; and (Ord. 2 of 1966, Art. III, Sect. 1, Passed 5-28-66; Ord. 19 of 1977, Sect. 2, Passed 12-19-77, Ord. 14 of 1986, Sect. 2, Passed 12-15-86)
- b.) By any non-resident of the City of Franklin at the rate of one (1%) percentum. (Ord. 8 of 1977, Sect. 1, Passed 7-25-77, Ord. 14 of 1986, Sect. 2, Passed 12-15-86)

(Ord. 13 of 1985, Sect. 2, Passed 12-16-85)

#### 313.04 DECLARATION AND PAYMENT OF TAX

- a.) Every taxpayer making net profits shall on or before April 15 of the current year, make and file with the Income Tax Officer on a form prescribed or approved 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 (4) equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration, 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.
- b.) Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration hereinabove 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 or before the quarterly payment dates provided in Section 313.04 (a) which remain after the filing of this declaration.
- c.) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Income Tax Officer on a form prescribed or approved by the Income Tax Officer a final return showing the amount of net profits earned 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 and the total amount of tax paid thereon.
- d.) Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the Income Tax Officer on or before January 31 of the succeeding year, the final return as hereinabove required.
- e.) The Income Tax Officer shall provide by regulations for the making and filing 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 hereinabove required anticipates additional net profits not previously declared or finds that he has over estimated his anticipated net profits.

- f.) Every taxpayer who discontinues business prior to December 31 of the current year, shall, within thirty (30) days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

(Ord. 2 of 1966, Art. IV, Sect. 1, Passed 5-28-66)

#### 313.05 FILING OF FINAL RETURN

Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Income Tax Officer on a form prescribed or approved by 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 thereon that has been withheld pursuant to the provisions hereinafter set forth relating to the collection at source and the balance of tax due; and, at the time of filing the final return, such taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment. (Ord. 2 of 1966, Art. IV, Sect. 1, Passed 5-28-66)

#### 313.06 TAXPAYERS NOT SUBJECT TO COLLECTION AT SOURCE

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 from 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 Officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the Officer the amount of tax shown as due thereon. (Ord. 2 of 1966, Art. IV, Sect. 3, Passed 5-28-66)

#### 313.07 EMPLOYER MUST REGISTER

Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the City of Franklin who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, and who has not previously registered, shall, within fifteen (15) days after becoming an employer under this Article, register with the Income Tax Officer his name and address and such other information as the Income Tax Officer may require. (Ord. 2 of 1966, Art. V, Sect. 1 (a), Passed 5-28-66)

#### 313.08 EMPLOYERS MUST REPORT

Every employer having an office, factory, workshop, branch, warehouse or other place of business within the City of Franklin, 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 this Article 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 employer shall show the name and social security number of each of such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, 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. (Ord. 2 of 1966, Art. V, Sect. 1 (b), Passed 5-28-66)

### 313.09 FAILURE OF EMPLOYERS TO REPORT

Any employer who for two (2) of the preceding four (4) 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 Income Tax Officer, 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. (Ord. 2 of 1966, Art. V, Sect. 1 (b), Passed 5-28-66)

### 313.10 REGULATIONS FOR FILING FOR EMPLOYERS

On or before February 28 of the succeeding year, every employer shall file with the Income Tax Officer:

- a.) 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;
- b.) A return withholding statement for each employee employed during all or 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 subdivision imposing the tax upon such employee and the amount of tax paid to the Income Tax Officer. Every employer shall furnish two (2) copies of the individual return to the employee for whom it is filed.

(Ord. 2 of 1966, Art. V, Sect. 1 (c), Passed 5-28-66)

### 313.11 DISCONTINUANCE OF BUSINESS

Every employer who discontinues business prior to December 31 of the current year, shall, within thirty (30) days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due. (Ord. 2 of 1966, Art. V, Sect. 1(d), Passed 5-28-66)

### 313.12 FAILURE OF EMPLOYER TO MAKE DEDUCTIONS

Except as otherwise provided in Section 9 of the Local Tax Enabling Act, every employer who willfully or negligently fails or omits to make the deductions required by this Article 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. The failure or omission of any employer to make the deductions required by this Article shall not relieve any employee from the payment of the tax or from complying with the requirements of this resolution relating to the filing of declarations and returns. (Ord. 2 of 1966, Art. V, Sects. 1 (e) and 1 (f), Passed 5-28-66)

### 313.13 APPOINTMENT AND DUTIES OF INCOME TAX OFFICER

The Income Tax Officer shall be designated by resolution of, and shall receive such compensation for his services and such expenses as determined from time to time by, the Council of the City of Franklin. It shall be the duty of the Income Tax Officer to administer and enforce the provisions of this Article, to collect and receive the taxes, fines and penalties imposed by this Article, to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt; and the Income Tax Officer shall have all the power and duties, and shall be subject to the requirements, provisions and penalties, provided in The Local Tax Enabling Act. (Ord. 2 of 1966, Art. VI, Sects. 1 and 2, Passed 5-28-66)

### 313.14 OFFICER TO PRESCRIBE REGULATIONS

The Income Tax Officer is hereby empowered to prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of this Article, including provisions for the re-examination 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 cases 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 Article; PROVIDED, HOWEVER, no rule or regulation of any kind shall be enforceable unless it has been approved by resolution by the Council of the City of Franklin. A copy of such rules and regulations currently in force shall be available for public inspection. (Ord. 2 of 1966, Art. VI, Sect. 3, Passed 5-28-66)

### 313.15 REFUND FOR BUSINESS EXPENSES

The Income Tax Officer shall refund, on petition of, and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer. (Ord. 2 of 1966, Art. VI, Sect. 4, Passed 5-28-66)

### 313.16 OFFICER MAY INSPECT BOOKS

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 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 investigation, as are hereby authorized. (Ord. 2 of 1966, Art. VI, Sect. 5, Passed 5-28-66)

#### 313.17 CONFIDENTIAL INFORMATION

Any information gained by the Income Tax Officer, his agents, or by any other official or agent of the City of Franklin, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Article, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law. (Ord. 2 of 1966, Art. VI, Sect. 6, Passed 5-28-66)

#### 313.18 DIFFERENT FILING DATES

The Officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year. (Ord. 2 of 1966, Art. VI, Sect. 7, Passed 5-28-66)

#### 313.19 SUIT FOR TAXES

The Income Tax Officer may sue in the name of the City of Franklin for the recovery of taxes due and unpaid under this Article. Any suit brought to recover the tax imposed by this Article shall be begun 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:

- a.) 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 Article, there shall be no limitation.
- b.) 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 Officer, reveals a fraudulent evasion of taxes, there shall be no limitation.
- c.) In the case of substantial understatement of tax liability of twenty-five percent or more, and no fraud, suit shall be begun within six years.
- d.) Where any person has deducted taxes under the provisions of this Article 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 Article, there shall be no limitation.
- e.) This section shall not be construed to limit the Council of the City of Franklin from recovering delinquent taxes by any other means provided by the Local Tax Enabling Act. (Ord. 2 of 1966, Art. VII, Sects. 1 and 2, Passed 5-28-66)



### 313.20 SUIT DUE TO ERRONEOUS REFUNDS

The Income Tax Officer may sue for recovery of an erroneous refund provided such suit is begun within 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 material fact. (Ord. 2 of 1966, Art. VII, Sect. 3, Passed 5-28-66)

### 313.21 INTEREST

If for any reason the tax 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. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed. (Ord. 2 of 1966, Art. VIII, Sect. 1, Passed 5-28-66)

### 313.99 PENALTIES

- a.) Any person who fails, neglects, or refuses to make any declaration or return required by this Article, 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 said Officer 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 Article, shall, upon conviction thereof before any justice of the peace, magistrate or court of competent jurisdiction in Venango County, Pennsylvania, 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 this Article, shall, upon conviction thereof before any justice of the peace, 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 costs, and, in default of payment of said fines and costs, to be imprisoned for a period 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 this Article.
- d.) The failure of any person to receive or procure forms required for making the declaration or returns required by this Article shall not excuse him from making such declaration or return. (Ord. 2 of 1966, Art. IX, Sect. 1, Passed 5-28-66)