

ARTICLE 341
Income Tax

341.01	Definitions.	341.06	Suit for collection of taxes.
341.02	Imposition of tax and exemptions.	341.07	Interest and penalties.
341.03	Return and payment of tax by taxpayers.	341.08	Payment and refund.
341.04	Collection at source.	341.09	Applicability.
341.05	Powers and duties of Tax Collector and income Tax Officer.	341.99	Penalty.

CROSS REFERENCES

Power to tax - see Act 511 of 12-31-65 (53 P. S. §6901-6924)

Limit of tax - see Act 511 of 12-31-65 (53 P.S. §6908(3))

Collection of delinquent taxes - see Act 511 of 12-31-65
(53 P.S. 16919 et seq.)

341.01 DEFINITIONS.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise:

- (a) "Association" means a partnership, limited partnership or any other unincorporated group of two or more persons.
- (b) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit, or ordinarily conducted for profit, whether by an individual, fiduciary, association, copartnership, corporation or any other entity, alone or in association with some other person or persons.
- (c) "Corporation" means 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) "Earnings" means salaries, wages, commissions and other compensation as defined in this article.
- (e) "Employer" means an individual, fiduciary, copartnership, association, corporation, governmental body or unit or agency, or any other entity employing one or more persons on a salary, wage, commission or other compensation basis.
- (f) "Fiscal year" means the year commencing January 1 and ending December 31, both dates inclusive of each calendar year.
- (g) "Income Tax Officer" means the person designated by the City to administer the provisions of this article.
- (h) "Net profit" means the net income from the operation of a business, profession, enterprise or other activity, after provision for all costs and expenses incurred in the conduct thereof, either received or accrued in accordance with the accounting system used in such business, profession, enterprise or other activity, after provision for all costs and expenses incurred in the conduct thereof, either received or accrued in accordance with the accounting system used in such business, profession, enterprise or other activity, but without deduction of taxes, Federal, State or local, based on income.
- (i) "Person" means a natural person, fiduciary, association, copartnership, corporation or other entity. Whenever used in any section prescribing and imposing a penalty, the term "person" as applied to associations, means the partners or members thereof, and as applied to corporations, the officers thereof.
- (j) "Resident" means a person residing in the City of York.
- (k) "Nonresident" means a person not residing in the City of York.
- (l) "Salaries, wages, commissions and other compensation" mean salaries, wages, commissions, bonuses, incentive payments, fees and tips that may be paid to or received by an individual for services rendered whether in cash or property, or that may accrue to such individual in accordance with an established accounting procedure, whether directly or through an agent and whether in cash or in property, not including the periodic payments for sick or disability benefits and those commonly recognized as old-age benefits, retirement pay, social security or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, or public assistance or unemployment compensation payments made by any governmental agency, or any bonus or additional compensation paid by the United States or the Commonwealth of Pennsylvania or any other state for prior service in the Army, Navy, Air Force or Marine Corps of the United States.
- (m) "Taxable" means subject to the tax imposed by this article.
- (n) "Tax Collector" means the person or agency designated by the City to collect the tax imposed by this article.
- (o) "Taxpayer" means a person required hereunder to file a return of earnings or net profits, or to pay a tax thereon. (Ord. 73-1965 §2.)

341.02 IMPOSITION OF TAX AND EXEMPTIONS.

A tax for general revenue purposes of one percent is hereby imposed on the following:

- (a) Salaries, wages, commissions and other compensation earned by residents of the City, during the fiscal year and salaries, wages, commissions and other compensation earned in the City by nonresidents.

- (b) Net profits earned by residents of the City, during the fiscal year and net profits earned in the City by nonresidents.
- (c) Every corporation which is subject to the Pennsylvania corporate net income tax or exempt from the Pennsylvania corporate net income tax and every foreign corporation which is subject to the Pennsylvania franchise tax or exempt from the Pennsylvania franchise tax, shall be exempt from the tax imposed by this article. (Ord. 73-1965 §3.)

341.03 RETURN AND PAYMENT OF TAX BY TAXPAYERS.

(a) Every person whose earned income from salaries, wages, commissions, net profits or other compensation is subject to tax shall report the same on forms provided by the Bureau, and shall pay to the Bureau the tax due thereon, by April 15 next following the end of the fiscal year during which such tax becomes due. Each such return shall also include earned income from salaries, wages, commissions, net profits or other compensation reportable, and each such payment shall also include tax payable, at the same above mentioned time, under any City ordinance adopted in or for any other year, so that but one inclusive return shall be filed and but one inclusive payment made for the same calendar year or for the same fiscal year of the taxpayer (even though including tax levied with respect to income received or earned in two different fiscal years), and so that taxpayers' records of salaries, wages, commissions, net profits or other compensation for Federal income tax purposes on calendar or fiscal year basis may be conveniently used for reporting taxes due to this City. Such return shall state the taxpayer's name, address, place of employment or business, aggregate gross salaries, wages, commissions, net profits or other compensation, before any deductions, or net profits subject to tax for the period of the return, the amount of tax due, the amount of any credit claimed for tax withheld by an employer, and such other information as may be required by the Income Tax Officer.

(b) Every taxpayer who discontinues business during the fiscal year, shall within thirty days after the discontinuance of business, file his final return as hereinabove required and pay the tax due, or demand refund or credit in the case of overpayment. Where discontinuance of business is due to the death of the taxpayer, his personal representative, or in the absence of a personal representative, his heirs as designated by the Pennsylvania Interstate Act of 1947, as amended, or as hereafter amended or supplemented, shall file the decedent taxpayer's final return within sixty days after the taxpayer's death and pay the tax due or demand refund in the case of overpayment.

(c) The Income Tax Officer is hereby authorized to provide by regulation for the making and filing of adjusted returns of salaries, wages, commissions and other compensation, and for the payment of the additional taxes in cases where a taxpayer who had filed the return hereinabove required shall have earned additional salaries, wages, commissions or other compensation not previously declared, or finds that he has overpaid the tax due on his salaries, wages, commissions and other compensation.

(d) In the event of the death of the taxpayer during the fiscal year, his personal representative or in the absence of a personal representative, his heirs as designated by the Pennsylvania Interstate Act of 1947, as amended, or as hereafter amended or supplemented, shall file the decedent taxpayer's final return within sixty days after the taxpayer's death and pay the tax due or demand refund in the case of overpayment. (Ord. 73-1965 §4.)

341.04 COLLECTION AT SOURCE.

(a) Every person within the City who employs one or more persons on a salary, wage, commission or other compensation basis, other than domestic servants, at any time during the fiscal year, shall deduct, at the time of the payment thereof, the tax imposed by this article on the salaries, wages, commissions and other compensation due to his employee or employees, and shall on or before April 30, July 31, October 31, and January 31, respectively, of each fiscal year, make and file with the Income Tax Office on a form prescribed by the Income Tax Officer a return, setting forth the taxes so deducted and pay the amount of taxes deducted for the preceding quarterly periods ending in March 31, June 30, September 30, and December 31, respectively. However, any employer who has not been in business prior to January 1, of any fiscal year, shall make and file such returns on whichever the following dates shall first follow the beginning of such business: March 31, June 30, September 30, December 31, and thereafter as herein provided. The City may provide by regulations for payments by employers on a monthly basis where an aggregate amount of tax in excess of fifty dollars (\$50.00) per month is withheld under the provisions of this article.

(b) On or before January 31, of each fiscal year, every such employer shall file with the Income Tax Officer on forms prescribed by him:

- (1) An annual return showing the total amount of salaries, wages, commissions and other compensation earned by his employee or employees, on which tax is imposed by this article, the total amount of tax deducted and the total amount of tax paid to the City in respect to salaries, wages, commissions and other compensation earned by his employee or employees during the fiscal year; and
- (2) A return in respect of each person who was an employee during all or any part of the fiscal year and who earned during such period any salaries, wages, commissions or other compensation subject to the tax imposed by this article, setting forth the employee's name, address and social security number, and amount of such salaries, wages, commissions or other compensation earned by the employee during such period, the amount of tax deducted therefrom and such other relevant information as the Income Tax Officer may require. Every employer shall furnish a copy of the individual return to the employee in respect for whom it was filed.

(c) Every employer who discontinues business prior to December 31, in any fiscal year, shall, within thirty days after the discontinuance of business, file the returns hereinabove required and pay the tax due. Where discontinuance of business is due to the death of the employer, his personal representative, or in the absence of a personal representative,

his heirs as designated by the Pennsylvania Interstate Act of 1947, as amended or as hereafter amended or supplemented, shall within sixty days after the death of the employer file his final return and pay the tax due or demand refund in the case of overpayment.

(d) The failure or omission of any employer to make the deduction required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of this article relating to the filing of declarations and returns.

(e) If an employer makes a deduction of tax as required by this section, the amount deducted shall constitute in the hands of such employer a trust fund held for the account of the City as beneficial owner thereof and the employee from whose salaries, wages, commissions or other compensation of such tax is deducted shall be deemed to have paid such tax. (Ord. 73-1965 §5.)

341.05 POWERS AND DUTIES OF TAX COLLECTOR AND INCOME TAX OFFICER.

(a) It shall be the duty of the Tax Collector to collect and receive the taxes, fines and penalties imposed by this article. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and, if paid by such person in respect of another person, the name of such other person, and the date of such receipt.

(b) The Income Tax Officer is hereby charged with the administration and enforcement of the provisions of this article, and is hereby empowered, subject to the approval by the City, 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 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 prescribe forms necessary for the administration of this article.

(c) The Income Tax Officer, and agents designated in writing by him, are hereby authorized to examine the books, papers, and records of any person in order to certify the accuracy of any return, or, if no return was filed, to ascertain the tax due, if any. Every person who is a taxpayer or employer, or who may reasonably be thought by the Income Tax Officer to be a taxpayer or employer, as defined herein, who is subject to the provisions of this article is hereby directed and required to give to the Income Tax Officer or to any agent designated by him, the means, facilities and the opportunity for such examinations and investigations as are hereby authorized. In addition to all other powers, the Income Tax Officer shall have the power, on behalf of the City to examine any person under oath concerning salaries, wages, commissions and other compensation returned, or which should have been returned for taxation hereunder; to compel the production of books, papers and records, and the attendance of persons before him whether as parties, principals, agents or witnesses.

(d) Any information gained by the Income Tax Officer, his agents, or by any other official, agent or employee of the City as a result of any returns, investigations, hearings or verifications required or authorized by this article shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this article or as otherwise provided by law.

(e) Any person aggrieved by any action of the Income Tax Officer shall have the right of appeal as provided by law. (Ord. 73-1965 §6.)

(f) There shall be deducted from the tax imposed by this article the amount of any tax paid by a nonresident to the City, County or Township of his residence on account of income earned by such nonresident in the City of York during the fiscal year, upon receipt of a verified application for refund. (Ord. 16-1981 §1. Passed 7-7-81.)

341.06 SUIT FOR COLLECTION OF TAXES.

(a) The Tax Collector may sue in the name of the City for the recovery of taxes due and unpaid under this article.

(b) Any suit brought to recover the tax imposed by this article shall be begun within five years after such tax is due or within five years after a 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 return was filed by any person although a return was required to be filed by him under the provisions of this article.
- (2) In the case of a false or fraudulent return with intent to evade tax.
- (3) Where any person has deducted taxes under the provisions of this article and has failed to pay the amounts so deducted to the City.
- (4) This section shall not be construed to limit the City from recovering delinquent taxes by any other means provided by the laws of Pennsylvania. (Ord. 73-1965 §7.)

341.07 INTEREST AND PENALTIES.

If for any reason the tax is not paid when due, a penalty of five percent of the amount of the tax due shall be added to such tax on the date it becomes delinquent, and an additional penalty of five percent of the amount due for each additional year 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 legal costs of collection, and the interest and penalties herein imposed. (Ord. 73-1965 §8.)

341.08 PAYMENT AND REFUND.

The Tax Collector is hereby authorized to accept payment of the amount of tax claimed by the City in any case where a person disputes the validity or amount of the claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Tax Collector, the amount of the overpayment shall be refunded to the person who paid. (Ord. 73-1965 §9.)

341.09 APPLICABILITY.

The tax imposed by this article shall not apply:

- (a) To any person as to whom it is beyond the legal power of the City to impose the tax herein provided for under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.

- (b) To the net profits of any institution or organization operated for public, religious, educational or charitable purposes, to an institution or organization not organized or operated for private profit or to a trust or a foundation established for any of such purposes.
- (c) This section shall not be construed to exempt any person who is an employer from the duty of collecting the tax at source from his employees and paying the amount collected to the City under the provisions of Section 341.04.
- (d) If the City shall join with other political subdivisions in operating a Tax Collection Bureau, which shall be an unincorporated agency organized and operated for the collection of the taxes imposed hereunder and similar taxes imposed by such other political subdivisions, such Tax Collection Bureau shall supersede the Income Tax Officer as herein set forth, in addition to such other powers and duties as may be prescribed by the City by ordinance duly adopted. (Ord. 73-1965 §10.)

341.99 PENALTY.

(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 pay the tax deducted 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 makes any incomplete, false or fraudulent return to avoid payment of the whole or any part of the tax imposed by this article, shall, upon conviction thereof be fined not more than one thousand dollars (\$1,000) for each offense and costs, and, in default of payment thereof shall be imprisoned for not more than ninety days (90 days).

(b) Any person who, except as permitted by the provisions of Section 341.05(d), divulges any information which is confidential under the provisions of such section shall be fined not more than one thousand dollars (\$1,000) for each offense and costs, and, in default of payment thereof shall be imprisoned for not more than ninety days (90 days).

(c) The penalties imposed under this section shall be in addition to any other penalty by any other section of this article.

(d) The failure of any person to receive or procure the forms required for making any return by this article shall not excuse him from making such return. (Ord. 1-2009. Passed 1-6-09.)