

**UPPER DARBY TOWNSHIP  
DELAWARE COUNTY,  
PENNSYLVANIA**

**ORDINANCE NO. 3191**

**AN ORDINANCE OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON EARNED INCOME AND NET PROFITS OF RESIDENTS OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA AND ON EARNED INCOME AND NET PROFITS BY NONRESIDENTS OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, FOR WORK ON, OR SERVICES PERFORMED OR RENDERED IN SAID TOWNSHIP, REQUIRING THE FILING OF DECLARATIONS AND RETURNS, AND THE GIVING OF INFORMATION BY EMPLOYERS AND OTHERS SUBJECT TO THE TAX, IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING THE TAX AT THE SOURCE, PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE ORDINANCE AND IMPOSING PENALTIES FOR VIOLATION THEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Upper Darby Township (“Township”) is a Home Rule municipality organized and operating in accordance with the Charter of Upper Darby Township (“Charter”) as permitted by the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. §2901 et seq. (“Home Rule Law”); and

**WHEREAS**, Section 2962(b) of the Home Rule Law, 53 Pa. C.S. §2962(b), provides, in relevant part, “... a municipality which has adopted a home rule charter shall have the power and authority to enact and enforce local tax ordinances upon any subject of taxation granted by statute to the class of municipality of which it would be a member but for the adoption of a home rule charter at any rate of taxation determined by the governing body...”; and

**WHEREAS**, Section 2962(h) of the Home Rule Law, 53 Pa. C.S. §2962(h), further provides that, “[t]his section does not limit or take away any right of a municipality which adopts a home rule charter from levying any tax which it had the power to levy had it not adopted a home rule charter”; and

**WHEREAS**, the Township is authorized by the Act of General Assembly of the Commonwealth of Pennsylvania of December 31, 1965, No. 511, 53 P.S. §6924.101-6924.901, as amended, known as “The Local Tax Enabling Act”, to adopt and implement an Earned Income Tax; and

**WHEREAS**, in order to adopt an annual budget for the fiscal year 2026 that complies with the requirements of Article IX of the Upper Darby Township Home Rule Charter, it is necessary and in the best interest of the Township to levy an Earned Income Tax beginning in fiscal year 2026; and

**WHEREAS**, Township Council desires to levy an Earned Income Tax on income earned by Township residents and by nonresidents of the Township who work in the Township, to be used for general Township purposes; and

**WHEREAS**, Township Council finds that by levying an Earned Income Tax the Township will not interfere with or reduce revenues earned by the School District of Upper Darby; and

**WHEREAS**, Township Council determines that it is in the best interests of the Township to impose and collect an Earned Income Tax of 1% pursuant to and under its powers under the Township Charter, the Home Rule Law, and Act 511.

**NOW, THEREFORE**, Upper Darby Township hereby **ORDAINS** as follows:

#### **SECTION 1.**

Chapter 489, "Taxation," of the Code of Upper Darby Township is hereby amended by adding a new Article VIII thereto, entitled "Earned Income Tax," which shall read as set forth in Appendix "A" hereto.

#### **SECTION 2. SEVERABILITY**

The provisions of this Ordinance are severable. If any sentence, clause or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such constitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this Ordinance. It is hereby declared to be the intent of the Township that this Ordinance would have been enacted had such unconstitutional, illegal or invalid sentence, clause or section not been included herein.

#### **SECTION 3. INTERPRETATION**

The words, phrases and provisions of this Ordinance are not to be interpreted in a way that results in an absurd construction of the meaning, or in a way that causes one provision to contradict another.

#### **SECTION 4. REPEAL OF PRIOR ORDINANCES**

All Ordinances or parts thereof inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby repealed.

#### **SECTION 5. EFFECTIVE DATE**

Pursuant to the Local Tax Enabling Act, 53 P.S. § 6924.309 and the Upper Darby Home Rule Charter, this Ordinance shall become effective thirty (30) days after the date on which the Mayor approves this Ordinance or, in the event the Mayor neither approves nor vetoes this Ordinance, forty-five (45) days after the last day on which the Mayor can approve or veto this Ordinance, as set forth in Local Tax Enabling Act, 53 P.S. § 6924.309 in combination with the Upper Darby Township Home Rule Charter, Section C-702.C.

**SECTION 6. IMPLEMENTATION AND COLLECTION**

It is further provided, however, that notwithstanding the effective date of this Ordinance, the Earned Income Tax levied by the terms of this Ordinance shall not commence collection until January 1, 2026.

**ORDAINED** and **ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

SEAL:

ATTEST: \_\_\_\_\_ BY: \_\_\_\_\_  
MICHELLE BILLUPS HAFIZ TUNIS, JR.  
SECRETARY OF COUNCIL PRESIDENT OF COUNCIL

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

ATTEST: \_\_\_\_\_ BY: \_\_\_\_\_  
CRANDALL O. JONES EDWARD BROWN  
CHIEF ADMINISTRATIVE OFFICER MAYOR

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# Appendix “A”

## ARTICLE VIII – EARNED INCOME TAX

### §489-72 Authority

This article is enacted pursuant to the authority granted by the Local Tax Enabling Act, 53 P.S. §§ 6924.101, et seq.

### §489-73 Definitions

A. All terms as are defined in the Local Tax Enabling Act, 53 P.S. §§ 6924.101-6924.901, shall have the meanings set forth therein. Further, the following words, terms and phrases, as used in this Ordinance, shall have the following meanings respectively ascribed to them in this section:

*Association* A partnership, limited partnership, or any other form of unincorporated enterprise owned by 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 a person, partnership, association, or any other entity.

*Business Entity* A sole proprietorship, corporation, joint-stock association or company, partnership, limited partnership, Limited Liability Company, association, business trust, syndicate, or other commercial or professional activity organized under the laws of this Commonwealth or any other jurisdiction.

*Collector* The Tax Officer for the administration and collection of the Earned Income Tax of Upper Darby Township appointed by the Tax Collection Committee for the applicable Tax Collection District and acting pursuant to the various provisions of the Local Tax Enabling Act and this Ordinance.

*Combined Tax Rate Applicable to Residents* The total rate applicable to residents of the Taxing Authority, including the tax imposed by the School District, if any, and by the municipality in which the individual resides, is one percent (1%).

*Domicile* The place where a person lives and has a permanent home and to which the person has the intention of returning whenever 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 the person to adopt some other permanent home. In the case of a business, domicile is that place considered as the center of business affairs and the place where its functions are discharged.

*Earned Income* The compensation as required to be reported to or as determined by the Department of Revenue under section 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section. Employee business expenses as reported to or determined by the Department of Revenue under Article III of the Tax Reform Code of 1971 shall constitute allowable deductions in determining earned income. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income. Earned income shall not include any wages or compensation paid by the United States to any person for active service in the military of the United States or the Commonwealth of Pennsylvania or any other state for such service.

*Employer* A person, business entity or other entity, employing one or more persons for a salary, wage, commission or other compensation. The term includes the Commonwealth, a political subdivision, and an instrumentality or public authority of either. For purposes of penalties under this Ordinance, the term includes a corporate officer.

*Governing body* The Council of Upper Darby Township, Delaware County, Pennsylvania.

*Local Tax Enabling Act* Act of December 31, 1965, P.L. 1257, 53 P.S. §§ 6924.101 - 6924.901, and any amendments thereto.

*Municipal tax rate applicable to nonresidents.* The total rate applicable to nonresidents working within the Taxing Authority based on the municipal nonresident tax rate is one percent (1%).

*Net profits.* The net income from the operation of a business other than a corporation, as required to be reported to or as determined by the Department of Revenue under section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section. The term does not include income under any of the following paragraphs:

1. Income which:
  - a. Is not paid for services provided; and
  - b. Is in the nature of earnings from an investment.
2. Income which represents:
  - a. Any gain on the sale of farm machinery;
  - b. Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes; or
  - c. Any gain on the sale of other capital assets of a farm.

*Nonresident.* A person or business domiciled outside the Taxing Authority.

*Person.* A natural person, partnership, corporation, fiduciary, or association. Whenever used in any section 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.

*Resident.* A person or business domiciled in Upper Darby Township, Delaware County, Pennsylvania.

*Tax.* The tax imposed by this Ordinance.

*Taxing authority.* Upper Darby Township, Delaware County, Pennsylvania

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

*Tax return.* A form prescribed by the Collector for reporting the amount of tax or other amount owned or required to be withheld, remitted, or reported pursuant to this Ordinance or the Local Tax Enabling Act.

*Tax year.* The period from January 1 to December 31.

*TCC.* The Delaware County Tax Collection Committee.

*TCD.* Any tax collection district to which the Taxing Authority or any part of the Taxing Authority is assigned under the Local Tax Enabling Act.

- B. Singular shall include the plural, and the masculine shall include the feminine and neuter.

#### **§ 489-74 Imposition of Tax.**

- A. General purpose resident tax. The Taxing Authority hereby imposes a tax for general revenue purposes at the rate of one percent (1%) on earned income and net profits of residents of the Taxing Authority.
- B. General purpose non-resident tax. The Taxing Authority 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 who is not a resident of the Taxing Authority, from any work, business, profession, or activity, of any kind engaged in within the boundaries of the Taxing Authority.
- 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 applicable law.

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 Collector.

#### **§ 489-75 Exemptions**

Any individual earning a total income of less than Twelve Thousand Dollars (\$12,000.00) annually shall be exempt from the Earned Income Tax.

#### **§ 489-76 Individual Tax Returns and Payments.**

Every resident 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 this Ordinance.

#### **§ 489-77 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 this Ordinance.

#### **§ 489-78 Tax Collector.**

The tax shall be collected from residents and employers by the Collector.

#### **§ 489-79 Interest, Penalties, Costs, and Fines.**

Residents and employers are subject to interest, penalties, costs, and fines in accordance with the Local Tax Enabling Act, including costs imposed by the Collector in accordance with authorization by the TCC having jurisdiction.