Administration

ORDINANCE NO. 15260

FILE OF CITY COUNCIL

BILL NO. 82 - 2015

November 4, 2015

AN ORDINANCE

Amending Article 331 Earned Income Tax, Subsection 331.02, Imposition of Tax, by changing the rates for residents from 1.33% to 1.65% and changing the dates from 2015 to 2016.

WHEREAS, the City of Allentown is a city of the third class operating under a Home Rule Charter form of governance authorized by the Home Rule and Optional Plans Law, 53 Pa.C.S.A. §2961 et seq.

WHEREAS, notwithstanding any provision to the contrary contained in the City's Home Rule Charter, as determined by the Commonwealth Court of Pennsylvania, the Home Rule and Optional Plans Law permits the City to increase its earned income tax.

WHEREAS, the Public Employee Retirement Study Commission, ("Commission") pursuant to the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. §895.101 et seq., a/k/a "Act 205" as amended by P.L. 396, No. 44 ("Act 44") (hereinafter referred to collectively as "the Act") has reviewed the aggregate public employee pension funding status for the City of Allentown; and

WHEREAS, the Commission has previously determined in accordance with Section 503 of the Act that the aggregate public employee pension funding status for the City of Allentown was at a Moderately Distressed, Recovery Level II; and

WHEREAS, Recovery Level II provides for certain remedies available to the City of Allentown pursuant to Sections 605 and 607 of the Act; and

WHEREAS, the remedies set forth in Section 607 are available to municipalities notwithstanding any provision of law, municipal charter, municipal ordinance, municipal resolution, or pension plan agreement, document or instrument to the contrary; and

WHEREAS, the City of Allentown elects to continue to avail itself of the special municipal taxing authority remedy set forth in Section 607(f) of the Act, as well as the taxing authority granted to it by the Home Rule and Optional Plans Law, which permits the City of Allentown to increase the earned income tax above its maximum level; and

WHEREAS, Section 607(f)(2) of the Act permits the City of Allentown to continue to levy the special municipal tax; and

WHEREAS, the City of Allentown shall increase its earned income and net profits tax on residents by thirty-two hundredths (0.32), from 1.33% to 1.65%.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

Section One: That Section 331.02 IMPOSITION OF TAX is amended to read as follows:

331.02 IMPOSITION OF TAX

The tax levied under this Ordinance shall be applicable to earned income received and to net profits earned in the period beginning January 1, of the current year, and ending December 31, of the current year or for taxpayer fiscal years beginning in the current year, except that taxes imposed for the first time shall become effective from the date specified in the ordinance or resolution, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed. Changes in rate shall become effective on the date specified in the ordinance. A tax for general revenue purposes and special municipal tax is imposed on the following as set forth herein: (15171 §1 12/4/14)

A. Salaries, wages, commissions and other compensation earned on and after January 1, ~~2015~~ 2016, by individual residents of the City; (15171 §1 12/4/14)

B. Salaries, wages, commissions and other compensation earned on and after January 1, ~~2015~~ 2016, by individual nonresidents of the City in the City; (15171 §1 12/4/14)

C. Net profits, earned on and after January 1, ~~2015~~ 2016, by residents of the City; (15171 §1 12/4/14)

D. Net profits, earned on and after January 1, ~~2015~~ 2016, in the City by nonresidents of the City. (15171 §1 12/4/14)

The tax levied under subsections A herein above shall total one and ~~thirty-three~~ sixty-five hundredths percent ~~(1.33%)~~ (1.65%) and shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to a person who is employed by him. The tax levied under subsections C and D herein shall total one percent one and ~~thirty-three~~ sixty-five hundredths percent ~~(1.33%)~~ (1.65%) and shall relate to and be imposed on the net profits of any business, profession or other activity carried on by any person or persons. (15100 §1 12/9/13; 15171 §1 12/4/14)

The tax levied under subsection B herein above shall total one and twenty-eight hundredths percent (1.28%) and shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to a person who is employed by him. The tax levied under subsection D herein above shall total one and twenty-eight hundredths percent (1.28%) and shall relate to and be imposed on the net profits of any business, profession or other activity carried on by any person or persons. (15171 §1 12/4/14)

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.

The tax levied by this article shall be applicable to salaries, wages, commissions and other compensation and to net profits earned in the period beginning January 1, ~~2014~~ 2016, and ending December 31, ~~2015~~ 2016 and for tax years thereafter with an effective date as provided by law. (15100 §1 12/9/13; 15171 §1 12/4/14)

SECTION TWO: That this Ordinance will take effect January 1, 2016.

SECTION THREE: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

	Yea	Nay
Joe Davis	X	
Jeanette Eichenwald		X
Jeff Glazier	X	
Daryl Hendricks	X	
Cynthia Y. Mota	X	
Julio A. Guridy, VP	X	X
Ray O'Connell, Pres.	X	
TOTAL	5	2

I hereby certify that the foregoing Ordinance was passed by City Council on December 14, 2015 and signed by the Mayor on December 15, 2015.

Michael P. Nack

CITY CLERK