

**BOROUGH OF ALBURTIS  
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 423

(Duly Adopted June 30, 2004)

AN ORDINANCE AMENDING CHAPTER 82 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO EARNED INCOME TAX) TO CONFORM TO THE AMENDMENT OF THE PENNSYLVANIA LOCAL TAX ENABLING ACT MADE BY ACT 2004-24 (WHICH EXEMPTED FROM TAXATION WAGES OR COMPENSATION PAID TO INDIVIDUALS ON ACTIVE MILITARY SERVICE AND WHICH MADE THE REVISED DEFINITIONS OF "EARNED INCOME" AND "NET PROFITS" ENACTED BY ACTS 2002-166 AND 2004-24 RETROACTIVE TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2002), BUT MAKING NO CHANGE IN THE RATE OF TAXATION (1.0% OF EARNED INCOME AND NET PROFITS).

**WHEREAS**, Borough Council has enacted and maintained an earned income tax under the authority of the Local Tax Enabling Act, 53 PA. STAT. ANN. § 6901 *et seq.*, since 1966, under ordinances codified to Chapter 82 of the Alburdis Codified Ordinances; and

**WHEREAS**, by Act 2004-24, the Pennsylvania General Assembly has amended the Local Tax Enabling Act to exclude wages or compensation paid to individuals on active military service from the definition of "earned income" taxable by the Borough, and to make the changes in the definitions of "earned income" and "net profits" as enacted by Acts 2002-166 and 2004-24 retroactive to taxable years beginning after December 31, 2002; and

**WHEREAS**, Council desires that the Borough's earned income tax ordinance be updated to conform to Act 2004-245; and

**WHEREAS**, there is to be no change in the rate of taxation under the earned income tax ordinance (1.0% of earned income and net profits); and

**WHEREAS**, on June 9, 16, and 23, 2004, the Borough published a public notice in the *East Penn Press*, a newspaper of general circulation in the Borough of Alburdis, of its

intention to consider and adopt on this Ordinance on June 30, 2004. The notice stated the substantial nature of the tax, the reason which, in the judgment of the Borough officials, necessitates the imposition of the tax, and the amount of revenue estimated to be derived from the tax; and

**NOW, THEREFORE,** be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburtis, Lehigh County, Pennsylvania, as follows:

**SECTION 1.** Codified Ordinances § 82-110 (relating to Earned Income Tax—Title, Authority, Duration, and Definitions—Earned Income) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 82-110 Earned Income.**

**(a) In General.** The term “earned income” shall mean “compensation” as determined under section 303 of the act of March 4, 1971 (Pa. Laws 6, No. 2), known as the “Tax Reform Code of 1971,” 72 PA. STAT. ANN. § 7303, and regulations in 61 Pa. Code Pt. I, Subpt. B, Art. V (relating to personal income tax) [61 Pa. Code ch. 101 through 125].

**(b) Individuals on Active Military Service.** Notwithstanding subsection (a), the term “earned income” shall not include wages or compensation paid to individuals on active military service.

**(c) (b) Employee Business Expenses.** Employee business expenses are allowable deductions as determined under Article III of the “Tax Reform Code of 1971,” 72 PA. STAT. ANN. § 7301 *et seq.*

**(d) (e) Clergy Housing Allowances.** The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

(e) **Effective Date.** The definition of “earned income” under this section as added by Ordinance 419 and amended by Ordinance 423 shall apply to taxable years beginning after December 31, 2002.

**SECTION 2.** Codified Ordinances § 82-113 (relating to Earned Income Tax—Title, Authority, Duration, and Definitions—Net Profits) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 82-113 Net Profits.**

(a) **In General.** The term “net profits” shall mean the net income from the operation of a business, profession, or other activity, except corporations, determined under section 303 of the act of March 4, 1971 (Pa. Laws 6, No. 2), known as the “Tax Reform Code of 1971,” 72 PA. STAT. ANN. § 7303, and regulations in 61 Pa. Code Pt. I, Subpt. B, Art. V (relating to personal income tax) [61 Pa. Code ch. 101 through 125]. The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment.

(b) **Farming.** For taxpayers engaged in the business, profession, or activity of farming, the term “net profits” shall not include:

- (1) any interest earnings generated from any monetary amounts or investment instruments of the farming business;
- (2) any gain on the sale of farm machinery;
- (3) any gain on the sale of livestock held twelve (12) months or more for draft, breeding, or dairy purposes; and
- (4) any gain on the sale of other capital assets of the farm.

(c) **Effective Date.** The definition of “net profits” under this section as added by Ordinance 419 shall apply to taxable years beginning after December 31, 2002.

**DULY ORDAINED** and **ENACTED** by the Borough Council of the Borough of Al-  
burtis, this 30<sup>th</sup> day of June, 2004, in lawful session duly assembled.

**BOROUGH COUNCIL  
BOROUGH OF ALBURTIS**

---

Steven R. Hill, President

Attest:

---

Melanie Hansen, Secretary

**AND NOW**, this 30<sup>th</sup> day of June, 2004, the above Ordinance is hereby **APPROVED**.

---

Russell J. Afflerbach, Mayor