

BOROUGH OF AVALON
ORDINANCE NO. 1280

AN ORDINANCE OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY AND COMMONWEALTH OF PENNSYLVANIA AMENDING THE DEFINITIONS OF "DOMICILE," "EARNED INCOME" AND "NET PROFITS" IN THE BOROUGH'S EARNED INCOME AND NET PROFITS TAX ORDINANCE, ORDINANCE NO. 1019; ADDING A NEW DEFINITION AND REPEALING CERTAIN DEFINITIONS IN ORDINANCE NO. 1019 AND IN ALL OTHER INCONSISTENT ORDINANCES.

SECTION 1: ENACTING CLAUSE.

Be it ordained and enacted by the Council of the Borough of Avalon and it is hereby ordained and enacted by the authority of the same, that from and after the effective date of this Ordinance, the following Ordinance shall be in full force and effect in the Borough of Avalon.

SECTION 2: CONFLICT AND REPEALER OF OTHER ORDINANCES.

Those sections of Ordinance No. 1019 and all other ordinances or parts of ordinances are repealed insofar as they conflict with the provisions of this Ordinance; however, such repeal shall not affect any act done or any liability or violation accrued under any such prior ordinance herein repealed or superseded and all such liabilities or violations shall continue and may be enforced in the same manner as if such repeal or

supersession had not been made; and any offense or violation committed and any penalty or forfeiture incurred under any such Ordinance herein repealed or superseded, may be prosecuted in the same manner as if this Ordinance had not been approved.

SECTION 3: AMENDMENT OF ORDINANCE NO. 1019.

A. Section 1 of Borough Ordinance No. 1019 is hereby amended as follows:

SECTION 1. DEFINITIONS.

The following words and phrases when used in this Ordinance shall have the meaning ascribed to them in this section except where the content clearly indicates or requires a different meaning:

(e) "Domicile." The place where one lives and has his permanent home and to which he has the intention of returning whenever he is 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 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." Compensation as determined under section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and regulations in 61 Pa.Code Pt. I Subpt. B, Art. V (relating to personal income tax). Employee business expenses are allowable deductions as determined under Article III of the "Tax Reform Code of 1971." The amount of any housing allowance provided to a

member of the clergy shall not be taxable as earned income.

(i) "Net Profits." 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 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and regulations in 61 Pa.Code Pt. I Subpt. B, Art. V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

- (a) Any interest earnings generated from any monetary accounts or investment instruments of the family business;
- (b) Any gain on the sale of farm machinery;
- (c) Any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and
- (d) Any gain on the sale of other capital assets of the farm.

(q) "Corporation." A corporation of joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency."

SECTION 4. DUTY TO FILE ORDINANCE WITH DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.

The Borough Manager shall file an exact copy of this ordinance with the Department of Community and Economic Development together with the name, position and phone number of the Tax Collector or Officer responsible for compliance with this Ordinance.

SECTION 5: SEVERABILITY.

The provisions of this ordinance shall be severable. If any provision, section, clause, sentence, phrase or word of this ordinance is for any reason held unconstitutional, invalid or illegal by any court of competent jurisdiction, said holding shall not affect the validity of any other portion of this ordinance. It is hereby declared as legislative intent that this ordinance would have been enacted had such unconstitutional, invalid or illegal portion not been included. Council of the Borough of Avalon does not intend to violate the Constitution of the Commonwealth of Pennsylvania or the Constitution of the United States of America.

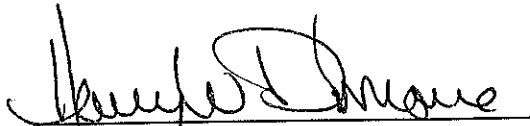
SECTION 6: EFFECTIVE DATE.


This Ordinance shall be effective immediately.

ORDAINED AND ENACTED into law this 18th day of March, 2003.

ATTEST:

BOROUGH OF AVALON


Harry W. Dilmore
Secretary

BY 
Edward Klicker
President

SEAL

Examined and approved by me this 21st day of
March, 2003.


Daniel K. Bricmont, Esq., Mayor