

BOROUGH OF AVALON
RESOLUTION NO. 979

A RESOLUTION OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY AND COMMONWEALTH OF PENNSYLVANIA, AMENDING CERTAIN DEFINITIONS IN THE BOROUGH'S RULES AND REGULATIONS ADOPTED PURSUANT TO THE LOCAL TAXPAYERS BILL OF RIGHTS, 53 Pa.C.S. § 8421, ET SEQ.; AMENDING ITEMS DEDUCTIBLE AND NOT DEDUCTIBLE IN THE RULES AND REGULATIONS; AND REPEALING ALL INCONSISTENT RESOLUTIONS.

WHEREAS, the Borough of Avalon adopted a Taxpayers Bill of Rights under the Local Taxpayers Bill of Rights, 53 Pa.C.S. § 8421, et seq., Act 50 of 1998; and

WHEREAS, the Borough also adopted various Rules and Regulations governing practice and procedure under the Local Taxpayers Bill of Rights; and

WHEREAS, it is the now the desire of Borough Council of the Borough of Avalon to amend the definitions of "earned income" and "net profits" contained in the Borough's Rules and Regulations to comply with Act 166 of 2002, enacted on December 9, 2002, and effective 60 days hence; and

WHEREAS, it is also the desire of the Borough Council of the Borough of Avalon to amend those classifications and descriptions contained in the Borough's Rules and Regulations concerning items deductible and not deductible in computing net profits as well as concerning items of compensation which are taxable and those which constitute exclusions from earnings in computing the earned income tax to comply with Act 166 of 2002.

NOW THEREFORE, be it resolved by Borough Council of the Borough of Avalon, and it is hereby resolved with the authority of same:

SECTION 1: AMENDMENT OF DEFINITIONS IN RULES AND REGULATIONS.

The following definitions contained in the Northgate School District and Borough of Avalon Rules and Regulations, Earned Income Tax, Net Profits Tax, as amended January 1, 1999, are hereby amended as follows:

"I. GENERAL PROVISIONS

(A) DEFINITIONS — For the purpose of these Rules and Regulations, the following terms shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning. The singular shall include the plural, and the masculine shall include the feminine or the neuter.

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.

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."

SECTION 2: AMENDMENT OF ITEMS DEDUCTIBLE AND NOT DEDUCTIBLE IN RULES AND REGULATIONS.

A. In determining earned income under the Northgate School District and Borough of Avalon Rules and Regulations, Section III(B), compensation shall be 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 the 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.

B. In determining net profits under the Northgate School District and Borough of Avalon Rules and Regulations, Section III(A), those items which are deductible and not deductible shall be 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 the regulations in 61 Pa.Code Pt. I Subpt. B, Art. V (relating to personal income tax). The term shall not include income which is not paid for services provided and which is in the nature of earnings from an investment and 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.

**SECTION 3: CONFLICTS BETWEEN ITEMS DEDUCTIBLE AND NOT DEDUCTIBLE
IN RULES AND REGULATIONS AND NEW DEFINITIONS.**

Where any definition, example, illustration or statement contained in the Northgate School District and Borough of Avalon Rules and Regulations, Sections III(A) or (B), conflicts herewith or with section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971, or the regulations in 61 Pa.Code Pt. I Subpt. B, Art. V (relating to personal income tax) or those employee business expenses which are

allowable deductions as determined under Article III of the "Tax Reform Code of 1971," or what shall or shall not be taxable as earned income, as well as the regulations in 61 Pa.Code Pt. I Subpt. B, Art. V (relating to personal income tax), or what shall or shall not be included in income, and which is in the nature of earnings from an investment, then in that event section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971, the regulations in 61 Pa.Code Pt. I Subpt. B, Art. V (relating to personal income tax), those employee business expenses which are allowable deductions as determined under Article III of the "Tax Reform Code of 1971," and what shall or shall not be taxable as earned income, as well as the regulations in 61 Pa.Code Pt. I Subpt. B, Art. V (relating to personal income tax), and what shall or shall not be included in income, and which is in the nature of earnings from an investment, contained herein, shall prevail.

SECTION 4: EFFECTIVE DATE.

This Resolution shall be effective immediately.

SECTION 5: REPEALER.

All resolutions or parts of resolutions conflicting herewith are repealed insofar as they conflict herewith.

RESOLVED this 18th day of February 2003.

ATTEST:

BOROUGH OF AVALON

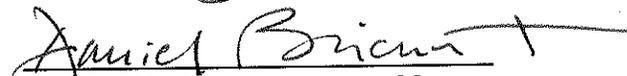

Harry W. Dilmore
Secretary


Edward Klicker
President
Borough of Avalon

SEAL

Examined and approved by me this 18th day of

February, 2003.


Daniel K. Bricmont, Esq., Mayor