



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 121036

Introduced December 13, 2012

Councilmembers Green, Henon, Greenlee and Jones

**Referred to the
Committee on Finance**

AN ORDINANCE

Amending Chapters 19-1500, 17-700, 19-1200, 19-500, 19-1800, 19-2800, and The Preface to the Tenth Edition of The Philadelphia Code, entitled "Wage and Net Profits Tax" "Law Department Fees" "Parking Tax" "Taxes and Rents – General" "School Tax Authorization" "Pennsylvania Intergovernmental Cooperation Authority Tax on Wages and Net Profits" and "The Preface to the Tenth Edition" to rename the Wage and Net Profits Tax the Employed Residents and Non-Residents Income and Earnings Tax, or ERNIE, and making conforming amendments throughout The Philadelphia Code, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-1500 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-1500 [WAGE AND NET PROFITS] *EMPLOYED RESIDENTS AND NON-RESIDENTS INCOME AND EARNINGS TAX, OR ERNIE*

* * *

§ 19-1502. Imposition of Tax.

(1) Tax On Salaries, Wages, Commissions And Other Compensation.

(a) Residents. [An annual tax on salaries, wages, commissions and other compensation earned by residents of Philadelphia is imposed] *The Employed Residents and Non-Residents Income and Earnings tax, or ERNIE, is imposed annually on salaries, wages, commissions and other compensation earned by residents of*

City of Philadelphia

BILL NO. 121036 continued

Philadelphia for general revenue purposes for the following periods at the following rates:

January 1, 1950 through December 31, 1956	1.25%
January 1, 1957 through December 31, 1960	1.50%
January 1, 1961 through December 31, 1965	1.625%
January 1, 1966 through June 30, 1968	2.00%
July 1, 1969 through June 30, 1971	3.00%
July 1, 1971 through June 30, 1976	3.3125%
July 1, 1976 through June 30, 1983	4.3125%
July 1, 1983 through June 30, 1991	4.96%
July 1, 1991 through December 31, 1995	3.46%
January 1, 1996 through June 30, 1996	3.36%
July 1, 1996 through June 30, 1997	3.34%
July 1, 1997 through June 30, 1998	3.29%
July 1, 1998 through June 30, 1999	3.1869%
July 1, 1999 through June 30, 2000	3.1135%
July 1, 2000 through June 30, 2001	3.0635%
July 1, 2001 through June 30, 2002	3.0385%
July 1, 2002 through June 30, 2003	3.00%
July 1, 2003 through December 31, 2004	2.9625%
January 1, 2005 through December 31, 2005	2.831%
January 1, 2006 through December 31, 2006	2.801%
January 1, 2007 through December 31, 2007	2.76%
January 1, 2008 through June 30, 2008	2.719%
July 1, 2008 through December 31, 2008	2.48%
January 1, 2009 through June 30, 2009	2.43%
July 1, 2009 through June 30, 2010	2.4296%
July 1, 2010 and thereafter	2.4280%

(b) Non-Residents. [An annual tax] *The Employed Residents and Non-Residents Income and Earnings tax, or ERNIE, is imposed annually* on salaries, wages, commissions and other compensation earned by non-residents of Philadelphia for work done or services performed or rendered in Philadelphia [is imposed] for general revenue purposes for the following periods at the following rates:

January 1, 1950 through December 31, 1956	1.25%
January 1, 1957 through December 31, 1960	1.50%
January 1, 1961 through December 31, 1965	1.625%
January 1, 1966 through June 30, 1968	2.00%
July 1, 1969 through June 30, 1971	3.00%

City of Philadelphia

BILL NO. 121036 continued

July 1, 1971 through June 30, 1976	3.3125%
July 1, 1976 through December 31, 1995	4.3125%
January 1, 1996 through June 30, 1996	4.2256%
July 1, 1996 through June 30, 1997	4.2082%
July 1, 1997 through June 30, 1998	4.1647%
July 1, 1998 through June 30, 1999	4.0750%
July 1, 1999 through June 30, 2000	4.0112%
July 1, 2000 through June 30, 2001	3.9672%
July 1, 2001 through June 30, 2002	3.9462%
July 1, 2002 through June 30, 2003	3.9127%
July 1, 2003 through December 31, 2004	3.8801%
January 1, 2005 through December 31, 2005	3.8197%
January 1, 2006 through December 31, 2006	3.7716%
January 1, 2007 through December 31, 2007	3.7557%
January 1, 2008 through June 30, 2008	3.7242%
July 1, 2008 through December 31, 2008	3.5392%
January 1, 2009 through June 30, 2009	3.50%
July 1, 2009 through June 30, 2010	3.4997%
July 1, 2010 and thereafter	3.4985%

(c) The *Employed Residents and Non-Residents Income and Earnings* tax, or *ERNIE*, imposed under § 19-1502(1)(a) and (b) shall relate to and be imposed upon salaries, wages, commissions, and other compensation paid by an employer or on his behalf to any person who is employed by or renders services to him.

(2) *The Employed Residents and Non-Residents Income and Earnings* tax, or *ERNIE*, on [On] Net Profits Earned In Businesses, Professions Or Other Activities.

(a) [An annual tax on the net profits earned in businesses, professions or other activities conducted by residents of Philadelphia is imposed] *The Employed Residents and Non-Residents Income and Earnings* tax, or *ERNIE*, is imposed annually on the net profits earned in businesses, professions or other activities conducted by residents of Philadelphia for general revenue purposes for the following periods at the following rates:

January 1, 1949 through December 31, 1955	1.25%
January 1, 1956 through December 31, 1959	1.50%
January 1, 1960 through December 31, 1964	1.625%
January 1, 1965 through December 31, 1968	2.00%
January 1, 1969 through December 30, 1970	3.00%

City of Philadelphia

BILL NO. 121036 continued

January 1, 1971 through December 31, 1975	3.3125%
January 1, 1976 through December 31, 1982	4.3125%
January 1, 1983 through June 30, 1991	4.96%
July 1, 1991 through December 31, 1995	3.46%
January 1, 1996 through December 31, 1996	3.34%
January 1, 1997 through December 31, 1997	3.29%
January 1, 1998 through December 31, 1998	3.1869%
January 1, 1999 through December 31, 1999	3.1135%
January 1, 2000 through December 31, 2000	3.0635%
January 1, 2001 through December 31, 2001	3.0385%
January 1, 2002 through December 31, 2002	3.00%
January 1, 2003 through December 31, 2004	2.9625%
January 1, 2005 through December 31, 2005	2.831%
January 1, 2006 through December 31, 2006	2.801%
January 1, 2007 through December 31, 2007	2.76%
January 1, 2008 through June 30, 2008	2.719%
July 1, 2008 through December 31, 2008	2.48%
January 1, 2009 through December 31, 2009	2.4296%
January 1, 2010 and thereafter	2.4280%

(b) [An annual tax on the net profits earned in businesses, professions or other activities conducted in Philadelphia by non-residents is imposed] *The Employed Residents and Non-Residents Income and Earnings tax, or ERNIE, is imposed annually on the net profits earned in businesses, professions or other activities conducted in Philadelphia by non-residents for general revenue purposes for the following periods at the following rates:*

January 1, 1949 through December 31, 1955	1.25%
January 1, 1956 through December 31, 1959	1.50%
January 1, 1960 through December 31, 1964	1.625%
January 1, 1965 through December 31, 1968	2.0%
January 1, 1969 through December 30, 1970	3.0%
January 1, 1971 through December 31, 1975	3.3125%
January 1, 1976 through December 31, 1982	4.3125%
January 1, 1983 through June 30, 1991	4.96%
July 1, 1991 through December 31, 1995	4.3125%
January 1, 1996 through December 31, 1996	4.2082%
January 1, 1997 through December 31, 1997	4.1647%
January 1, 1998 through December 31, 1998	4.0750%
January 1, 1999 through December 31, 1999	4.0112%
January 1, 2000 through December 31, 2000	3.9672%

City of Philadelphia

BILL NO. 121036 continued

January 1, 2001 through December 31, 2001	3.9462%
January 1, 2002 through December 31, 2002	3.9127%
January 1, 2003 through December 31, 2004	3.8801%
January 1, 2005 through December 31, 2005	3.8197%
January 1, 2006 through December 31, 2006	3.7716%
January 1, 2007 through December 31, 2007	3.7557%
January 1, 2008 through June 30, 2008	3.7242%
July 1, 2008 through December 31, 2008	3.5392%
January 1, 2009 through December 31, 2009	3.4997%
January 1, 2010 and thereafter	3.4985%

(c) The *Employed Residents and Non-Residents Income and Earnings tax, or ERNIE* levied under § 19-1502(2)(a) and (b) shall relate to and be imposed on the net profits of any business, profession, or enterprise carried on by any person as owner or proprietor, either individually or in association with some other person or persons.

(d) For taxable years beginning on or after January 1, 1998, the *Employed Residents and Non-Residents Income and Earnings tax, or ERNIE* levied under § 19-1502(2)(a) and (b) shall not apply to any net profits earned by a domestic or foreign business trust, or any series thereof, that qualifies as a regulated investment company under Section 851 of the Internal Revenue Code and is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940, or any related domestic or foreign business trust, or any series thereof, which confines its activities in Philadelphia to the maintenance, administration and management of intangible investments and activities of regulated investment companies.

(e) For taxable years beginning on or after January 1, 2012, the *Employed Residents and Non-Residents Income and Earnings tax, or ERNIE* levied under § 19-1502(2)(a) and (b) shall not apply to any net profits from any activity described in Section 19-2601 "Business," subsection (7) (relating to certain investment companies and investment company managers).

§ 19-1503. Returns and Payment of the *Employed Residents and Non-Residents Income and Earnings Tax, or ERNIE*.

(1) Each person whose net profits are subject to the *Employed Residents and Non-Residents Income and Earnings tax, or ERNIE*, imposed by this Chapter shall, on or before April 15 of each year, make and file with the Department a return on a form furnished by or obtainable from the Department setting forth the amount of such net profits earned by him during the preceding year and subject to the said tax, together with such other pertinent information as the Department may require.

City of Philadelphia

BILL NO. 121036 continued

Where a return is made for a fiscal year or for any other period different from a calendar year, the said return shall be made within 105 days from the end of the said fiscal year or other period.

(2) Each person who is employed on a salaried, wage, commission or other compensation basis, who is subject to [a] *the Employed Residents and Non-Residents Income and Earnings tax, or ERNIE*, imposed by this Chapter and which tax is not withheld by his/her employer and paid to the City as provided in § 19-1504 shall make and file a tax return with the Department on or before the last day of January, April, July and October for the last three months ending on the last day of the month preceding the due date. The return shall be made on a form furnished by the Department, setting forth the aggregate amount of salaries, wages, commissions, and other compensation subject to the said tax earned by such person for the three months, together with such other pertinent information as the Department may require.

(3) Whenever any person files a return required by § 19-1503 he shall at the time of filing pay to the Department the amount of tax due thereon.

§ 19-1504. Collection at Source.

(1) Each employer within the City who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct at the time of payment thereof, the *Employed Residents and Non-Residents Income and Earnings tax, or ERNIE*, imposed by this Chapter on the salaries, wages, commissions and other compensation due from the said employer to the said employee, except that due to employees engaged as domestic servants, and shall make a return and pay to the Department the amount of tax so deducted at such intervals as the Commissioner shall establish by regulations.

(a) The return shall be on a form or forms furnished by the Department, and shall set forth the names and residences of each employee of said employer during all or any part of the period covered by the said return, the amounts of salaries, wages, commissions or other compensation earned during such period by each of such employees, together with such other information as the Department may require.

(b) The employer making the return shall, at the time of filing, pay to the Department the amount of tax due thereon.

(c) The failure of any employer, residing either within or outside of the City, to make such return and/or to pay such tax shall not relieve the employee from the responsibility for making the returns, paying the tax, and complying with the regulations with respect to making the returns and paying the tax.

City of Philadelphia

BILL NO. 121036 continued

(2) When any employer makes deductions or returns under Section 19-1504(1) he shall deposit such deduction with the Department or with any bank designated by the Department, which shall in all cases be a bank designated as a City depository pursuant to Section 19-201(1).

(a) Each bank so designated shall issue official receipts to the employer for the money received from him, which money shall be credited to the City's account. Such deposits shall be reported daily to the Department.

(b) At the time of each deposit, the employer shall file with the Department or designated bank a depository form to be furnished by the Department which shall contain such information as the Department may require.

(3) Penalties. For late deposits of withheld taxes due under this Section there shall be added, in addition to the penalties set forth in § 19-508 a penalty of 10% of the underpayment.

§ 19-1505. *The Estimated Net Profits Tax component of The Employed Residents and Non-Residents Income and Earnings tax, or ERNIE.*

(1) Returns and Payments of Estimated Tax.

(a) Each person whose net profits are subject to the *Estimated Net Profits Tax component of The Employed Residents and Non-Residents Income and Earnings tax, or ERNIE*, imposed by this Chapter shall be required to file returns and pay estimated tax on account of the net profits due for the current taxable year.

(2) For the purposes of this Chapter, the term "estimated tax" means the amount of *the net profits component of the Employed Residents and Non-Residents Income and Earnings tax, or ERNIE*, which a person calculated to be his tax due under this Chapter for the preceding taxable year, after giving effect to the tax credit provided in Section 19-1506.

(3) Calendar Year Taxpayers.

(a) Returns and payments of estimated tax for taxable years beginning after December 31, 1984 shall be due and payable as follows:

City of Philadelphia

BILL NO. 121036 continued

(.1) The first installment of one-fourth (1/4) of the estimated tax shall be due and payable on or before April 15 of the taxable year.

(.2) The second installment of one-fourth (1/4) of the estimated tax shall be due and payable on or before June 15 of the taxable year.

(4) Fiscal Year Taxpayers.

(a) Persons who report net income for a fiscal year period other than a calendar year shall make returns and payments of estimated tax for taxable years beginning after December 31, 1984 as follows:

(.1) The first installment of one-fourth (1/4) of the estimated tax shall be due and payable within three and one-half (3 1/2) months after the beginning of the taxable fiscal year.

(.2) The second installment of one-fourth (1/4) of the estimated tax shall be due and payable within five and one-half (5 1/2) months after the beginning of the taxable fiscal year.

(5) Credits for Excessive Estimated Payments.

(a) Any estimated payments which exceed a person's tax liability for the taxable year shall be applied as a credit against the estimated tax for the following taxable year, to the extent of the estimated tax due for the following taxable year.

(b) The amount of any estimated payments which exceed the estimated tax for the following year shall be refunded to the taxpayer.

(6) Provisions not Applicable. The provisions of Section 19-1505 shall not be applicable to a person for a taxable year if:

(a) Such person was not engaged in business in the preceding taxable year; or

(b) Such person's net profits tax *component of The Employed Residents and Non-Residents Income and Earnings tax, or ERNIE*, liability for the preceding taxable year does not exceed \$100; or

(c) Such person terminated his business activity prior to the due date of the net profits tax *component of The Employed Residents and Non-Residents Income and Earnings tax, or ERNIE*, return for the preceding taxable year.

City of Philadelphia

BILL NO. 121036 continued

(7) Any person who terminates his business activity prior to the due date of any estimated payment shall not be required to make any additional estimated payments for that taxable year.

§ 19-1506. Credit Against Tax.

(1) Any person subject to a tax under § 19-1502(1)(c) [and (d)] shall be given a credit in the amount of sixty percent (60%) of the tax liability based upon net income and paid as provided by Chapter 19-2600 of this Title, subject to the provisions of this Section.

(a) The credit against [net profits] *the tax liability due to the net profits component of The Employed Residents and Non-Residents Income and Earnings tax, or ERNIE*, provided under § 19-2604(4), shall be calculated without regard to any reduction in tax provided under § 19-2604(6), relating to Credit for Contributions to Community Development Corporations.

(2) The credit provided pursuant to this Section relates to the following tax year:

(a) When a return is made for a fiscal year corresponding to the calendar year, the same calendar year as that which is used as the measuring period for computing net income subject to the tax imposed under Chapter 19-2600 of this Title on which the credit is based.

(b) When a return is made for a fiscal year other than a calendar year, the fiscal year which ends within the calendar year for which the tax imposed under Chapter 19-2600 of this Title is paid, and on which the credit is based.

(3) Nothing in this Section shall permit credits to be charged against any given tax year in excess of the amount of tax due under § 19-1502(1)(c) and (d) for that tax year.

§ 19-1507. Liability of Persons To Collect, Account For and Pay Over [Wage] Taxes *stemming from The Employed Residents and Non-Residents Income and Earnings tax, or ERNIE.*

(1) Any person required to collect, truthfully account for, and pay over any tax imposed by this Chapter on salaries, wages, commissions and other compensation who fails to collect such tax, or truthfully account for and pay over such tax, or willfully

City of Philadelphia

BILL NO. 121036 continued

attempts in any manner to evade or defeat any such tax or the payment thereof, shall be liable for the full amount of such tax.

(2) For purposes of subsection 19-1508(1), an individual or entity that exercises significant control over the financial affairs of an employer, including without limitation the disbursements of funds or determining the priority of payments to creditors, is deemed to be a person required to collect, truthfully account for, and pay over any tax imposed by this Chapter on salaries, wages, commissions and other compensation.

(3) For purposes of this Section, "person" includes a shareholder, director, trustee, officer or employee of a corporation, or a partner or employee of a partnership, or the sole proprietor of a sole proprietorship, or a third party who makes either direct payment of wages to the employees of another or advances funds to pay the wages of the employees of another.

(4) More than one person may be liable under subsection 19-1507(1) with respect to the same employer, with each such person being jointly and severally liable for the full amount of the tax.

(5) This Section is modeled upon Section 6672 of the Internal Revenue Code (26 U.S.C. § 6672), and it is City Council's intent that this Section be construed in the same manner that Section 6672 has been construed.

§ 19-1508. Reserved.

* * *

SECTION 2. Chapter 17-700 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 17-700 LAW DEPARTMENT FEES

* * *

§ 17-703. Fees for Private Tax Opinions.

(4) (b) Opinions on the [Wage and Net Profits Tax] *Employed Residents and Non-Residents Income and Earnings Tax, or ERNIE*, \$250

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City of Philadelphia

BILL NO. 121036 continued

SECTION 3. Chapter 19-1200 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-1200 PARKING TAX

* * *

§ Notes #141

Amended, Bill No. 040256 (approved July 1, 2004). Section 2 of Bill No. 040256 provides: "Effective Date. This Ordinance shall take effect only if and when both Bill No. 040607 and Bill No. 040608 become law. If either Bill No. 040607 or Bill No. 040608 fails to become law, this Ordinance shall not take effect, it being Council's intent that there should be no increase in the parking tax rate unless both the [wage and net profits tax] *Employed Residents and Non-Residents Income and Earnings Tax, or ERNIE*, cuts and the business privilege tax cuts provided by Bill Nos. 040607 and 040608 become law." Bill No. 040608 failed to become law; hence, Bill No. 040256 does not take effect, and the amendments therefore are not shown. Amended, Bill No. 050452 (approved June 15, 2005). Section 2 of Bill No. 050452 provides: "This Ordinance shall be effective with respect to transactions occurring on or after July 1, 2005." Amended, Bill No. 080160 (approved May 22, 2008).

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SECTION 4. Chapter 19-500 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-500 TAXES AND RENTS – GENERAL

* * *

§ 19-514. Tax Amnesty Program.

(2)(b)(.9) [Wage and net profits tax] *Employed Residents and Non-Residents Income and Earnings Tax, or ERNIE*, pursuant to Chapter 19-1500 and Chapter 19-2800.

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SECTION 5. Chapter 19-1800 of The Philadelphia Code is hereby amended to read as follows:

City of Philadelphia

BILL NO. 121036 continued

CHAPTER 19-1800 SCHOOL TAX AUTHORIZATION

* * *

§ 19-1804. Authorization of Net Income Tax

(2) Imposition of the Tax.

(a)

For Fiscal Year(s)	On Net Income Received or Credited During Tax Year(s)	Rate
1970 through 1976 inclusive	1969 through 1975 inclusive	2.00%
1977 through 1983 inclusive	1976 through 1982 inclusive	4.3125%
1984 through 1996 inclusive	1983 through 1995 inclusive	4.96%
1997	1996	4.84%
1998	1997	4.79%
1999	1998	4.715%
2000	1999	4.6135%
2001	2000	4.5635%
2002	2001	4.5385%
2003	2002	4.50%
2004	2003	4.4625%
2005	2004	4.4625%

City of Philadelphia

BILL NO. 121036 continued

2006	2005	4.331%
2007 and thereafter	The Tax Year Prior to the Fiscal Year	The rate at which taxes are imposed on residents under Section 19-1502(1)(a) ("Tax on Salaries, Wages, Commissions and Other Compensation") plus the rate at which taxes are imposed under § 19-2803 ("Imposition of Pennsylvania Intergovernmental Cooperation Authority [Tax on Wages and Net Profits] <i>Employed Residents and Non-Residents Income and Earnings Tax, or ERNIE</i> ") in effect on July 1 of the Tax Year Prior to the Fiscal Year

(3) Exclusions. There shall be excluded from the tax imposed by this Section the following income:

* * *

(d) Income from carrying on or exercising for profit of any trade, business, profession or enterprise which is subject to the [Net Profits Tax or Wage] *Employed Residents and Non-Residents Income and Earnings Tax, or ERNIE* (Philadelphia Code Chapter 19-1500 et seq.).

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SECTION 6. Chapter 19-2800 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-2800 PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY [TAX ON WAGES AND NET PROFITS] *EMPLOYED RESIDENTS AND NON-RESIDENTS INCOME AND EARNINGS TAX, OR ERNIE*

* * *

§ 19-2803. Imposition of Pennsylvania Intergovernmental Cooperation Authority [Tax on Wages and Net Profits] *Employed Residents and Non-Residents Income and Earnings Tax, or ERNIE*.

City of Philadelphia

BILL NO. 121036 continued

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SECTION 7. The Preface to the Tenth Edition of The Philadelphia Code is hereby amended to read as follows:

TITLE 19 FINANCE, TAXES AND COLLECTIONS

Ch. 19-1500 [Wage and Net Profits Tax] *Employed Residents and Non-Residents Income and Earnings Tax, or ERNIE*

Ch. 19-2800 Pennsylvania Intergovernmental Cooperation Authority [Tax on Wages and Net Profits] *Employed Residents and Non-Residents Income and Earnings Tax, or ERNIE*

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.