

LOWER MOUNT BETHEL TOWNSHIP
NORTHAMPTON COUNTY, PENNSYLVANIA

ORDINANCE 2011-06
(Duly Adopted October 17, 2011)

"EARNED INCOME TAX AND PROPERTY ACQUISITION TAX ORDINANCE"

AN ORDINANCE OF THE TOWNSHIP OF LOWER MOUNT

BETHEL, COUNTY OF NORTHAMPTON AND COMMONWEALTH OF PENNSYLVANIA, RE-ENACTING, RESTATING AND AMENDING ITS EARNED INCOME TAX ORDINANCE AND PROPERTY ACQUISITION TAX ORDINANCE TO ESTABLISH CONFORMITY WITH THE LOCAL TAX ENABLING ACT, AS AMENDED BY ACT 32 OF JULY 2, 2008; PROVIDING FOR DEFINITIONS; LEVYING A TAX ON EARNED INCOME AND NET PROFITS; REQUIRING TAXPAYERS TO FILE TAX RETURNS; REQUIRING EMPLOYERS TO WITHHOLD AND REMIT TAX AND FILE TAX RETURNS; PROVIDING FOR DUTIES OF THE TAX OFFICER; PROVIDING FOR INTEREST, PENALTIES, COSTS AND FINES FOR VIOLATIONS OF THIS ORDINANCE AND THE LOCAL TAX ENABLING ACT AND NON-PAYMENT OF TAX; AND PROVIDING FOR A

SEVERABILITY CLAUSE, PURPOSE AND REPEALER SECTION AND AN EFFECTIVE DATE.

WHEREAS, the Township of Lower Mount Bethel, Northampton County, Pennsylvania (hereinafter referred to as the "Township") previously enacted Ordinance Nos. 1 12 and 93-7 (hereinafter collectively referred to as the "Prior EIT Ordinance"), imposing a tax at the rate of one percent (1%) for general revenue purposes on earned income and net profits under the authority of the Pennsylvania Local Tax Enabling Act, formerly 53 P.S. Section 6901, et seq., and now 53 P.S. Section 6924.101, et seq.; and

WHEREAS, the Township of Lower Mount Bethel, Northampton County, Pennsylvania, also previously enacted Ordinance Nos. 2006-16 and 2009-03 (hereinafter collectively referred to as the "Prior Property Acquisition Tax Ordinance") imposing a tax at the rate of one quarter of one percent (0.25%) on earned income for the purposes set forth in the Existing Property Acquisition Tax Ordinance, including, among other things, to retire indebtedness of the Township incurred in purchasing interests in real property or in making additional acquisitions

of real property for the purpose of securing open space and benefits under the provisions of the Open Space Lands Act, 32 P.S. 5001, et seq. or the Agricultural Security Area Law, 3 P.S. §901, et seq., all as previously authorized by voter referendum; and

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WHEREAS, the Prior EIT Ordinance and the Prior Property Acquisition Tax Ordinance are collectively referred to as the "Existing EIT Ordinance"; and

WHEREAS, on July 2, 2008, the Pennsylvania Legislature enacted Public Law 197, Act No. 32 (hereinafter "Act 32"), which Act 32, inter alia, provided for the consolidated collection of local income taxes within a tax collection district established in each county under Section 504 of Act 32 for tax years beginning not later than on and after January 1, 2012; and

WHEREAS, the Township desires to re-enact, restate and amend in its entirety the Existing EIT Ordinance relating to the imposition and collection of an earned income tax by the Township of Lower Mount Bethel in order to conform with the provisions of Act 32, without a change in the rate of the tax.

NOW, THEREFORE, under the authority of the Local Tax Enabling Act, the Township of Lower Mount Bethel does hereby ordain that the Township's Existing EIT Ordinance is hereby re-enacted, restated and amended in its entirety to read as follows:

Section 1. Definitions.

For purposes of this Ordinance, all terms defined in the Local Tax Enabling Act, 53 P.S. Sec. 6924.101, et seq., shall have the meanings set forth therein. In addition, the following terms shall have the meanings set forth herein, unless the context shall clearly indicate otherwise:

a. Department. The Department of Community and Economic Development of the Commonwealth.

b. Effective Date. January 1, 2012.

c. Local Tax Enabling Act. The Local Tax Enabling Act, 53 P.S. sec. 6924.101, et seq., as it may be amended in the future, including any regulations adopted by the Department thereunder.

d. TCD. The Northampton Tax Collection District, or any future tax collection district, to which the Township or any part of the Township is assigned under the Local Tax Enabling Act.

e. TCC. The tax collection committee established to govern and oversee the collection of income tax within the TCD under the Local Tax Enabling Act.

f. Tax. The income tax on earned income and net profits imposed by this Ordinance.

g. Tax Return. A form or forms prescribed by the Department, or by the Tax Officer with the approval of the TCC, for reporting the amount of Tax or other amount owed or required to be withheld, remitted or reported under this Ordinance or the Local Tax Enabling Act.

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h. Tax Year. The period from January 1 to December 31 in a single calendar year.

Section 2. 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 and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of tax is subsequently changed. Changes in the rate shall become effective on the date specified in the ordinance.

a. Resident Tax.

(i) General Purpose Resident Tax. The Township hereby reenacts, restates and imposes a Tax for general revenue purposes at the rate of one percent (1%) on earned income and net profits of residents of the Township.

(ii) Open Space Resident Tax. In addition to the Tax levied for general revenue purposes set forth in Section 2(a)(1) of this Ordinance, the Township hereby restates and imposes a Tax for expenses related to open space lands under 32 P.S. Sec. 5007.1 at the rate of one quarter of one percent (0.25%) on earned income and net profits of residents of the Township. The money collected as a result of this additional Tax shall be used to retire indebtedness of the Township incurred in purchasing interests in real property or in making additional acquisitions of real property for the purpose of securing an open space benefit or benefits under the provisions of the Open Space Lands Act, 32 P.S. 5001, et seq., or the Agricultural Security Area Law, 3 P.S. 901, et seq. The money collected as a result of this additional Tax may also be used for any and all related and/or incidental costs incurred in retiring indebtedness of the Township incurred in purchasing interests in real property or in making additional acquisitions of real property for the purpose of securing an open space benefit or benefits under the provisions of the Open Space Lands Act or the Agricultural Security Area Law, including, but not limited to any and all costs associated with preparation of a comprehensive Open Space Plan, attorneys' fees, closing costs, surveying expenses, engineering fees, financing costs, environmental cleanup costs, insurance premiums and fees of other consultants and professionals. Revenue from the additional Tax shall be used in accordance with the procedures established by the Township's Board of Supervisors in compliance with the Open Space Lands Act. The additional tax was previously authorized by voter referendum on or about May 16, 2006.

b. Nonresident Tax.

(i) General Purpose Nonresident Tax. The Township also imposes a Tax for general revenue purposes at the rate of one percent (1%) on earned income and net profits derived by a nonresident from any work, business, profession or activity of any kind engaged in within the boundaries of Township.

c. Local Tax Enabling Act Applicable. The Tax is imposed under authority of the Local Tax Enabling Act, and all provisions thereof that relate to a tax on earned income or net profits are incorporated into this Ordinance. Any future amendments to the Local Tax Enabling Act that are required to be applied to the Tax will automatically become part of this Ordinance

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upon the effective date of such amendment, without the need for formal amendment of this Ordinance, to the maximum extent allowed by 1 Pa.C.S.A. Sec. 1937.

d. Applicable Laws, Regulations, Policies and Procedures. The Tax shall be collected and administered in accordance with (i) all applicable laws and regulations; and (ii) rules, regulations, policies and procedures adopted by the TCC or by the Tax Officer in conformity with the Local Tax Enabling Act. This includes any regulations, policies, and procedures adopted in the future to the maximum extent allowed by I Pa.C.S.A. Sec. 1937.

Section 3. No Exemption From Tax.

Although credits and deductions against Tax are permitted under certain circumstances as provided in applicable law and regulations, no individuals are exempt from Tax based on age, income, or other factors.

Section 4. Taxpayer Tax Returns, Declarations and Payments

a. Declaration and Payment. Except as provided in Section 4(b), taxpayers shall declare and pay income taxes as follows:

(i) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the tax officer, a final Tax Return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of Tax due on the taxable income, the amount of Tax paid, the amount of Tax that has been withheld under section 512 of the Local Tax Enabling Act, and the balance of Tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final Tax Return, the taxpayer shall pay the tax officer the balance of the Tax due or shall make demand for refund or credit in the case of overpayment.

(ii) Every taxpayer making net profits shall, by April 15 of the current year, make and file with the tax officer a declaration of the taxpayer's estimated net profits during the period beginning January 1 and ending December 31 of the current year, and shall pay to the tax officer in four equal quarterly installments the Tax due on the estimated net profits. The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on or

before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.

(iii) Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the tax officer in equal installments the Tax due on or before the quarterly payment dates that remain after the filing of the declaration.

(iv) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the tax officer a final Tax Return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January I of the current year, and ending December 31 of the current year, the total amount of

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Tax due on the net profits and the total amount of Tax paid. At the time of filing the final Tax Return, the taxpayer shall pay to the tax officer the balance of Tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated Tax, elect to make and file with the tax officer on or before January 31 of the succeeding year, the final Tax Return.

(v) The Department, in consultation with the Department of Revenue, shall provide by regulation for the filing of adjusted declarations of estimated net profits and for the payments of the estimated Tax in cases where a taxpayer who has filed the declaration required under this subsection anticipates additional net profits not previously declared or has overestimated anticipated net profits.

(vi) Every taxpayer who discontinues business prior to December 31 of the current year, shall, within 30 days after the discontinuance of business, file a final Tax Return as required under this paragraph and pay the Tax due.

(vii) Every taxpayer who receives any other taxable income not subject to withholding under section 512 (3) of the Local Tax Enabling Act shall make and file with the tax officer a quarterly Tax Return on or before April 15 of the current year, June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, setting forth the aggregate amount of taxable income not subject to withholding by the taxpayer during the three month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to income tax, together with such other information as may be required by applicable law, rule or regulation. Every taxpayer filing a Tax Return shall, at the time of filing the Tax Return, pay to the tax officer the amount of income tax due. The tax officer may waive the quarterly Tax Return and payment of the income tax and permit a taxpayer to file the receipt of taxable income on the taxpayer's annual return and pay the income tax due on or before April 15 of the succeeding year.

b. Non-calendar Year Taxpayers. For a taxpayer whose fiscal year is not a calendar year, the tax officer shall establish deadlines for filing, reporting and payment of Taxes which provide time periods equivalent to those provided for a calendar year taxpayer.

C. Partial domicile. The taxable income subject to Tax of a taxpayer who is domiciled in the Township for only a portion of the Tax Year shall be an amount equal to the taxpayer's taxable income multiplied by a fraction, the numerator of which is the number of calendar months during the Tax Year that the individual is domiciled in the Township and the denominator of which is 12. A taxpayer shall include in the numerator any calendar month during which the taxpayer is domiciled for more than half the calendar month. A day that a taxpayer's domicile changes shall be included as a day the individual is in the new domicile and not the old domicile. If the number of days in the calendar month in which the individual lived in the old and new domiciles are equal, the calendar month shall be included in calculating the number of months in the new domicile.

Section 5. Employer Withholding, Remittance and Tax Returns

For taxable years commencing on and after the Effective Date of this Ordinance, income taxes shall be withheld, remitted and reported as follows:

a. Registration. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the TCD which employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within fifteen (15) days after becoming an employer, register with the tax officer the name and address of the employer and such other information as the officer may require.

b. Certificate of Residency. An employer shall require each new employee to complete a certificate of residency form, which shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4). An employer shall also require any employee who changes their address or domicile to complete a certificate of residency form. The certificate of residency form shall provide information to help identify the political subdivision where an employee lives and works. Forms of certificate of residency may be obtained by an employer from the Department upon request by an employer.

c. Withholding of Tax. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the TCD that employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall, at the time of payment, deduct from the compensation due each employee employed at such place of business the greater of the employee's resident Tax or the employee's nonresident Tax as released in the official register under section 51 1 of the Local Tax Enabling Act.

d. Filing of Quarterly Tax Returns and Remitting Withheld Tax. Except as set forth in Section 5(d)(i), within thirty (30) days following the end of each calendar quarter, every employer shall file a quarterly Tax Return and pay the amount of income taxes deducted during the preceding calendar quarter to the tax officer for the place of employment of each employee. The form shall show the name, address and Social Security number of each employee, the compensation of the employee during the preceding three-month period, the income tax deducted from the employee, the political subdivision imposing the income tax upon the employee, the total compensation of all employees during the preceding calendar quarter, the total income tax deducted from the employees and paid with the Tax Return and any other information prescribed by the Department.

(i) Notwithstanding Section 5(d), the provisions of this paragraph shall apply if an employer has more than one place of employment in more than one tax collection district. Within thirty (30) days following the last day of each month, the employer may file the Tax Return required by Section 5(d) and pay the total amount of income taxes deducted from employees in all work locations during the preceding month to the tax officer for either the tax collection district in which the employer's payroll operations are located or as determined by the Department. The Tax Return and income taxes deducted shall be filed and paid electronically.

The employer must file a notice of intention to file combined Tax Returns and make combined payments with the tax officer for each place of employment at least one (1) month before filing its first combined return or making its first combined payment. This paragraph shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.

e. Failure to File Quarterly Tax Returns and Remit Withheld Taxes. Any employer who, for two (2) of the preceding four (4) quarterly periods, has failed to deduct the proper income tax, or any part of the income tax, or has failed to pay over the proper amount of income tax as required by Section 5 to the TCD may be required by the tax officer to file Tax Returns and pay the income tax monthly. In such cases, payments of income tax shall be made to the tax officer on or before the last day of the month succeeding the month for which the income tax was withheld.

f. Filing of Annual Tax Returns. On or before February 28 of the succeeding year, every employer shall file with the tax officer where income taxes have been deducted and remitted pursuant to Section 5:

(i) An annual return showing, for the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of compensation paid, the total amount of income tax deducted, the total amount of income tax paid to the tax officer and any other information prescribed by the Department.

(ii) An individual withholding statement, which may be integrated with the Federal Wage and Tax Statement (Form W-2), for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the address and Social Security number, the amount of compensation paid to the employee during the period, the amount of income tax deducted, the amount of income tax paid to the tax officer, the numerical code prescribed by the Department representing the tax collection district where the required payments were remitted and any other information required by the Department. Every employer shall furnish one (1) copy of the individual withholding statement to the employee for whom it is filed.

g. Discontinuance of Business. Any employer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after the discontinuance of business, file returns and withholding statements required under this section and pay the income tax due.

h. Willful or Negligent Failure to Deduct Taxes. Except as otherwise provided in section 51 1 of the Local Tax Enabling Act, an employer who willfully or negligently fails or omits to make the deductions required by this Section shall be liable for payment of income taxes which the employer was required to withhold to the extent that the income taxes have not been recovered from the employee. The failure or omission of any employer to make the deductions required by this Section shall not relieve any employee from the payment of the income tax or from complying with the requirements for filing of declaration and Tax Returns.

Section 6. Tax Officer.

In addition to any other power or duty conferred upon a tax officer by the Local Tax Enabling Act, it shall be the duty of the Tax Officer:

a. Collection of Tax. The Tax will be collected from taxpayers and employers by the tax officer. The tax officer is authorized to file an action in the name of the Township for the recovery of the Tax due to the Township and unpaid. Nothing in this Section shall affect the authority of the Township to file an action in its own name for collection of the Tax under the Local Tax Enabling Act.

b. Criminal Complaints for Violations. The tax officer is authorized to file criminal complaints on behalf of the Township for violation of this Ordinance or the Local Tax Enabling Act. Nothing in this Section shall affect the authority of the Township to file a criminal complaint on its own behalf for violation of this Ordinance or the Local Tax Enabling Act.

Section 7. Interest, Penalties, Costs and Fines

In the event of violation of this Ordinance or the Local Tax Enabling Act, or non-payment of Tax, taxpayers and employers are subject to interest, penalties, costs and fines in accordance with the Local Tax Enabling Act, including costs of collection imposed by the tax officer in accordance with authorization by the TCC. The tax officer may retain reasonable costs of collection in accordance with Local Tax Enabling Act and as approved by the TCC.

Section 8. Severability.

The provisions of this Ordinance are declared to be severable. If any article, section, subsection, paragraph, clause, phrase or provision of this Ordinance shall be held to be invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provisions hereof, other than the part determined to be invalid or unconstitutional. It is hereby declared to be the intent of the Township that this Ordinance would have been adopted had such invalid or unconstitutional article, section, subsection, paragraph, clause, phrase or provision not been included herein.

Section 9. Purpose and Repealer.

The primary purpose of this Ordinance is to conform the Township's currently existing earned income and net profits tax as outlined in the Existing EIT Ordinance to the Local Tax Enabling Act, as amended and restated by Act 32 of 2008, and to do so within the time frame required by Act 32. Any prior ordinance or part of any prior ordinance conflicting with the provisions of this Ordinance is rescinded insofar as the conflict exists. To the extent the provisions of this Ordinance are the same as any ordinance in force immediately prior to adoption of this Ordinance, the provisions of this Ordinance are intended as a continuation of such prior ordinance and not as a new ordinance, including but not limited to the Prior Property Acquisition Tax Ordinance. If this Ordinance is declared invalid, any prior ordinance levying a similar tax

shall remain in full force and effect and shall not be affected in any manner by adoption of this Ordinance. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish any offense under the authority of any ordinance in force prior to adoption of this Ordinance. Subject to the foregoing provisions of this Section, this Ordinance shall supersede and repeal on the Effective Date any ordinance levying a tax on earned income or net profits in force immediately prior to the Effective Date. The Tax imposed by this Ordinance shall not apply to any person as to whom it is beyond the legal power of the Township to impose the Tax herein provided under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.

Section 10. Construction,

This Ordinance is intended to be consistent with the Local Tax Enabling Act. The Ordinance is intended to include all necessary authorizations to permit the tax officer to take all actions for the collection, administration, disbursement and enforcement of the Tax and all other actions on behalf of the political subdivisions of the TCD as authorized by the Local Tax Enabling Act, subject to the policies and procedures of the TCC. To give full force and effect to this Ordinance, the authority of the tax officer shall be interpreted in the broadest permissible sense for the benefit of the tax officer's ability to perform its duties.

Section 11. Effective Date.

The provisions of this Ordinance shall become effective on January 1, 2012, and shall apply to earned income received or earned and net profits earned or made by a taxpayer during calendar year 2012 and each year thereafter without annual re-enactment unless the rate of tax is subsequently changed.

DULY ENACTED AND ORDAINED as an Ordinance of Lower Mount Bethel Township, this 17th day of October, 2011 by a majority of the Board of Supervisors of the Township of Lower Mount Bethel, Northampton County, Pennsylvania, at a duly advertised meeting of the Board of Supervisors at which a quorum was present. As part of this Ordinance, the Board of Supervisors has directed that the Chairperson, or Vice-Chair in the absence of the Chairperson, execute this Ordinance on behalf of the Board.

TOWNSHIP OF LOWER MOUNT BETHEL
BOARD OF SUPERVISORS


By: Susan E. Disidore, Chairperson

Attest:

Li A. Stauffer, Secret
Township Secretary
(Seal)

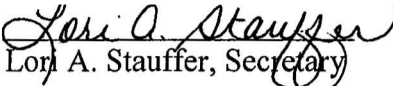
LOWER MOUNT BETHEL TOWNSHIP
NORTHAMPTON TAX COLLECTION DISTRICT
COMMONWEALTH OF PENNSYLVANIA

SECRETARY CERTIFICATE

I, the undersigned, Secretary of Lower Mount Bethel Township ("Municipality"), Northampton Tax Collection District, Pennsylvania, certify that: (i) attached is a true and correct copy of Ordinance 2011-06 that was duly enacted by an affirmative vote of all members of the Board of Supervisors of the Municipality at a meeting duly held on October 17, 2011, (ii) said Ordinance has been duly recorded in the records of the Municipality, and (iii) said Ordinance has not been amended, altered, modified or repealed as of the date of this Certificate.

IN WITNESS WHEREOF, I set my hand and affix the official seal of Municipality, this
be day Of January, 2012.

Lower Mount Bethel Township

By: 
Lori A. Stauffer, Secretary

[SEAL]

Lower Mount Bethel Township

PO Box 257

Martins Creek, PA 18063

(610) 252-5074

(610) 253-8971

(fax)

January 6, 2012

Governor's Center for Local Government Services
Department of Community & Economic Development
Commonwealth of Pennsylvania
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Re: New Earned Income Tax Enactment
Lower Mount Bethel Township (Northampton County)
Ordinance 2011-06

Dear Sir/Madam:

Enclosed please find a certified true and correct copy of the recent Earned Income Tax ("EIT") Enactment of Lower Mount Bethel Township ("Municipality") within the Northampton Tax Collection District. The Ordinance (Township Ordinance 2011-06) was adopted in order to conform the Municipality's existing EIT Enactment to the requirement of Act 32 of 2008, which amended the Pennsylvania Local Tax Enabling Act. The Ordinance is applicable to collection beginning January 1, 2012.

If you have any questions or comments, please do not hesitate to contact me.

Very truly yours,

Lower Mount Bethel Township


B .Lori A. Stauffer, Secretary

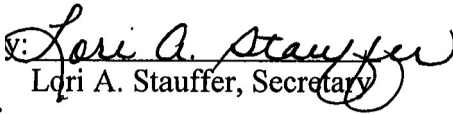
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in WITNESS WHEREOF, I set my hand and affix the official seal of Municipality, this 30th day of November, 2011.

Lower Mount Bethel Township


B . Lori A. Stauffer, Secretary

[SEAL]

{00272619}

Lower Mount Bethel Township

PO Box 257
Martins Creek, PA 18063
(610)252-5074
(610) 253-8971 (fax)

November 30, 2011

Governor's Center for Local Government Services
Department of Community & Economic Development
Commonwealth of Pennsylvania
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Re: New Earned Income Tax Enactment
Lower Mount Bethel Township (Northampton County)
Ordinance 2011-06

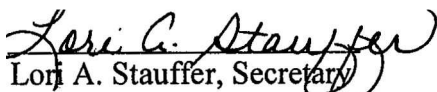
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If you have any questions or comments, please do not hesitate to contact me.

Very truly yours,

Lower Mount Bethel Township


By. Lori A. Stauffer, Secretary

cc: David Woglom, NTCD Administrative Director (w/o encl)

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