

ORDINANCE NO. 317

ORDINANCE ESTABLISHING AN OCCUPATION PRIVILEGE  
TAX FOR THE BOROUGH OF DALLASTOWN, YORK COUNTY,  
PENNSYLVANIA

1. This ordinance shall be known and may be cited as the "Occupation Privilege Tax Ordinance".

2. Definitions. The following words and phrases, when used in this ordinance shall have the meaning ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

(a) "Individual" shall mean any person, engaged in any occupation, trade or profession within the corporate limits of Dallastown Borough.

(b) "Occupation" shall mean any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of Dallastown Borough for which compensation is charged or received whether by means of salary, wages, commissions or fees for services rendered.

(c) "Employer" shall mean an individual, partnership, association, corporation, governmental body, agency or other entity employing one or more persons on salary, wage, commission or other compensation basis, including self-employed person.

(d) "Tax" shall mean the occupation privilege tax in the amount of ten (\$10.00) dollars levied by this ordinance.

(e) "Treasurer" shall mean the Treasurer of Dallastown Borough, or his designated agent.

(f) "Secretary-Treasurer" shall mean the person designated by the governing body of Dallastown Borough to administer the provisions of this ordinance.

(g) "Fiscal year" shall mean the twelve (12) month period beginning January 1 and ending December 31.

(h) "Dallastown Borough" shall mean the area within the corporate limits of Dallastown Borough.

(i) "He," "his" or "him" shall mean and indicate the singular and plural number as well as male or female gender.

3. Levy. Dallastown Borough hereby levies and imposes on each occupation engaged in by individuals within its corporate limits during the fiscal year of 1979, and continuing annually thereafter, an occupation privilege tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by Dallastown Borough.

4. Amount of Tax. Beginning with the first day of January 1979, each occupation as hereinbefore defined, engaged in within the corporate limits of Dallastown Borough, shall be subject to an occupation privilege tax in the amount of ten (\$10.00) dollars per annum, said tax to be paid by the individual so engaged.

5. Duty of Employers. Each employer within Dallastown Borough as well as those employers situated outside Dallastown Borough but who engage in business within Dallastown Borough, is

hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within Dallastown Borough, the said tax of ten (\$10.00) dollars per annum and making a return and payment thereof to the Treasurer. Further, each employer is hereby authorized to deduct this tax from each employe in his employ, whether said employe is paid by salary, wages or commission and whether or not part or all such services are performed within Dallastown Borough.

6. Returns. Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Borough Secretary. Each employer in filing this return and making payment of the tax withheld from his employes shall be entitled to retain a commission calculated at the rate of two per centum (2%) of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to said employe, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him.

7. Dates for Determining Tax Liability and Payment. Each employer shall use his employment records from the first day of January to the 31st day of April for determining the number of employes from whom said tax shall be deducted and paid over to the Treasurer on or before May 15. A supplemental report shall be made by each employer on January 31 of new employes as reflected on his employment records from May to December 31. Payment on this supplemental report shall be made on January 31.

8. Individuals Engaged in More Than One Occupation.

(a) Each individual who shall have more than one occupation within Dallastown Borough shall be subject to the payment of this tax on his principal occupation and his principal employer shall deduct this tax and deliver to him evidence of deductions on a form to be furnished to the employer by the Borough Secretary, which form shall be evidence of deduction having been made and when presented to any other employer shall be authority for such employer to not deduct this tax from the employe's wages, but to include such employe on his return by setting forth his name, address and the name and account number of the employer who deducted this tax.

(b) In the event a person is engaged in more than one occupation, or an occupation which requires his working in more than one political subdivision during the calendar year, the priority of claim to collect such occupational privilege tax shall be in the following order:

First, the political subdivision in which a person maintains his principal office or is principally employed;

Second, the political subdivision in which the person resides and works, if such a tax is levied by that political subdivision;

Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year. It is the intent of this provision that no person shall pay more than ten (\$10.00) dollars in any calendar year as an occupational privilege tax, irrespective of the number of political subdivisions within which such person may be employed within any given calendar year. In case of dispute, a tax receipt of the taxing authority for that

calendar year declaring that the taxpayer has made prior payment which constitutes prima-facie certification of payment to all other political subdivisions.

Deduction or non-deduction and reporting by employers shall be in accordance with Section 8(a).

9. Self-Employed Individuals. All self-employed individuals who perform services of any type or kind or who engage in any occupation or profession within Dallastown Borough, shall be required to comply with this ordinance and pay the tax to the Treasurer on May 15.

In the event a self-employed person is engaged in more than one occupation within or without the Borough or an occupation which requires his working in more than one political subdivision during the year, reporting priority of claims and prima-facie certification of payment shall be in accordance with Section 8(a) and (b).

10. Employers and Self-Employed Individuals Residing Beyond the Corporate Limits of Dallastown Borough. All employers and self-employed individuals residing or having their place of business outside of Dallastown Borough, but who perform services of any type or kind, or engage in any occupation or profession within Dallastown Borough do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this ordinance with the same force and effect as though they were residents of Dallastown Borough. Further, any individual engaged in an occupation within Dallastown Borough, and an employe of a nonresident employer may, for the purpose of this ordinance, be considered a self-employed person, and in the event this tax is not paid the Borough shall have the option of proceeding against either the employer or employe for the collection of this tax as hereinafter provided.

11. Administration of Tax.

(a) It shall be the duty of the Treasurer to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person together with the date the tax was received.

(b) The Secretary is hereby charged with the administration and enforcement of this ordinance and is hereby charged and empowered to prescribe, adopt, promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this ordinance including provisions for the examination of the payroll records of any employer subject to this ordinance; the examination and correction of any return made in compliance with this ordinance and any payment alleged or found to be incorrect, or as to which overpayment is claimed or found to have occurred, or any payment made by a taxpayer who is engaged in a business or occupation or businesses or occupations within the corporate limits of Dallastown Borough, from which he derives in the aggregate less than one thousand (\$1,000.00) dollars per year gross income. Any person aggrieved by any decision of the Borough shall have the right to appeal to the Court of Common Pleas of York County, as in other cases provided.

(c) The Secretary is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer, or, if no return was made, to ascertain the tax due. Each employer is hereby directed required to give the Secretary the means, facilities and opportunity for such examination.

12. Suits for Collection.

(a) In the event that any tax under this ordinance remains due or unpaid thirty (30) days after the due dates above set forth, the Secretary may sue for the recovery of any such tax

due or unpaid under this ordinance together with interest and penalty.

(b) If for any reason the tax is not paid when due, interest at the rate of six percent (6%) on the amount of said tax shall be calculated beginning with the due date of said tax and a penalty of five percent (5%) shall be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

13. Fine and Penalty. Whoever makes any false or untrue statement or any return required by this ordinance, or who refuses inspection of his books, records or accounts in his custody and control setting forth the number of employes subject to this tax who are in his employment, or whoever fails or refuses to file any return required by this ordinance, shall upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00) and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. Provided: action to enforce the fine and penalty hereby provided may be instituted against any person in charge of the business of any employer who fails or refuses to file a return required by this ordinance, and each violation of any provision of this ordinance, and each day the same is continued, shall be deemed a separate offense.

14. Validity. The provisions of this ordinance are severable and if any of its provisions shall be held invalid or unconstitutional, the decision of the court shall not affect or invalidate any of the remaining provisions. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision had not been included herein.

15. Saving Clause.

(a) Nothing contained in this ordinance shall be construed to empower Dallastown Borough to levy and collect the tax whereby imposed on any occupation not within the taxing power of the Borough under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

(b) If the tax hereby imposed under the provisions of this ordinance shall be held by any court of competent jurisdiction to be violation of the Constitution of the United States or of the law of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax, or the validity of the tax so imposed on other persons or individuals as herein provided.

16. Enacted this 29<sup>th</sup> day of December, 1978.

Attest:

Dallastown Borough Council

  
Secretary

By:   
Borough President

Approved this 29<sup>th</sup> day of December, 1978.

  
Mayor

DALLASTOWN BOROUGH  
ORDINANCE NO. 460

AN ORDINANCE OF THE BOROUGH OF  
DALLASTOWN, LOCATED IN YORK COUNTY,  
PENNSYLVANIA, AUTHORIZING YORK AREA  
EARNED INCOME TAX BUREAU TO FILE  
CRIMINAL CHARGES AGAINST DELINQUENT  
TAXPAYERS VIOLATING OCCUPATION  
PRIVILEGE TAX.

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Council of the Borough of Dallastown, York County, Pennsylvania, as follows, to wit:

**SECTION 1:** Section 188-26 of the Code of the Borough of Dallastown is hereby amended by adding to the same the following:

"The York Area Earned Income Tax Bureau, current collector of the Occupation Privilege Tax, and any other duly appointed collector of such tax for the Borough, is hereby authorized, in the name of the Borough, to file and pursue criminal proceedings before a District Justice against a delinquent taxpayer or entity for violation of this Article setting forth the Occupation Privilege Tax Ordinance of Dallastown Borough."

**SECTION 2:** It is the intention of the Borough Council that each Section or portion of any Section of this Ordinance shall be a separate provision and all shall be independent of all other provisions herein, and it is further the intention of the Borough Council that if any Section or portion of any Section shall be declared to be unconstitutional, invalid, illegal, or unenforceable by any Court of competent jurisdiction, such decision shall not affect the validity of any of the remaining Sections or parts thereof of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been enacted had such unconstitutional, invalid, illegal or unenforceable provision not

have been included herein.

**SECTION 3:** This Ordinance shall be effective immediately upon its adoption.

**ENACTED AND ORDAINED** by the Council of the Borough of Dallastown, York County, Pennsylvania, on November 13, 2000.

ATTEST:

COUNCIL OF THE BOROUGH  
OF DALLASTOWN

By: Connie L. Stokes  
Connie L. Stokes  
Secretary

By: William J. Stewart  
William J. Stewart  
President of Borough Council

**APPROVED** on November 13, 2000.

Beverly A. Scott  
Beverly A. Scott, Mayor