

Part 2

Occupational Privilege Tax

§201. Short Title. Be it ordained by the Council of North York Borough and it is hereby ordained by the authority of the same, that this Part shall be known and may be cited as the "Occupation Privilege Tax Ordinance of 1975". (Ord. 74-19, 12/19/1974, §1)

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

"BOROUGH TREASURER" - the person designated by the governing body of North York Borough to administer the provisions of this Part.

"EMPLOYER" - 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.

"FISCAL YEAR" - the Twelve (12) month period beginning January 1, 1975 and ending December 31, 1975.

"HE", "HIS" or "HIM" - shall mean and indicate the singular and plural number as well as Male or Female gender.

"INDIVIDUAL" - any person, male or female, engaged in any occupation, trade or profession within the corporate limits of North York Borough.

"NORTH YORK BOROUGH" - the area within the corporate limits of North York Borough.

"OCCUPATION" - 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 North York Borough for which compensation is charged or received whether by means of salary, wages, commissions or fees for services rendered.

"TREASURER" - the Treasurer of North York Borough or his designated agent.

(Ord. 74-19, 12/19/1974, §2)

§203. Levy. North York Borough hereby levies and imposes on each occupation engaged in by individuals within its corporate limits during the fiscal year of 1975, and for each year thereafter, an Occupation Privilege Tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by North York Borough. (Ord. 74-19, 12/19/1974, §3; as amended by Ord. 88-1, 2/1/1988)

§204. Amount of Tax. Beginning with the first day of January, 1975, each occupation as hereinbefore defined, engaged in within the corporate limits of North York 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. (Ord. 74-19, 12.19/1974, §4)

§205. Duty of Employers. Each employer within North York Borough as well as those employers situated outside North York Borough, but who engage in business within North York Borough, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within North York 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 employee in his employ, whether said employee is paid by salary, wages or commission and whether or not part or all such services are performed within North York Borough. (Ord. 74-19, 12/19/1974, §5)

§206. 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 Treasurer. Each employer in filing this return and making payment of the Tax withheld from his employees shall be entitled to retain a commission calculated at the rate to two (2%) percentum 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 employee, 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. (Ord. 74-19, 12/19/1974, §6)

§207. Dates for Determining Tax Liability and Payment. Each employer shall use his employment records from the first day of January to the 30th day of June, of each year, for determining the number of employees from whom said tax shall be deducted and paid over to the Treasurer on or before July 15, of each year. A supplemental report shall be made by each employer on December 31, of each year, of new employees as reflected on his employment records from July 1, to December 31. Payment on this supplemental report shall be made on January 31, of the following year. (Ord. 74-19, 12/19/1974, §7; as amended by Ord. 88-1, 2/1/1988)

§208. Individuals Engaged in More Than One Occupation.

1. Each individual who shall have more than one occupation within North York 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 Treasurer, 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 employee's wages, but to include such employee on his return by setting forth his name, address and the name and account number of the employer who deducted this tax.

2. 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

occupation privilege tax shall be in the following order: First, the political subdivision in which a person maintains his principal office or is principally employer; 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.

3. Deduction or non-deduction and reporting by employers shall be in accordance with §208(1).

(Ord. 74-19, 12/19/1974, §8)

§209. Self-employed Individuals. All self-employed individuals who perform services of any type or kind engaged in any occupation or profession within North York Borough, shall be required to comply with this Part and pay the tax to the Treasurer on July 15, of each year, or as soon thereafter as he engages in an occupation.

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 §208(1) and 2)

(Ord. 74-19, 12/19/1974, §9; as amended by Ord. 88-1, 2/1/1988)

§210. Employers and Self-Employed Individuals Residing Beyond the Borough Limits. All employers and self-employed individuals residing or having their place of business outside of North York Borough, but who perform services of any type or kind, or engage in any occupation or profession within North York Borough do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Part with the same force and effect as though they were residents of North York Borough. Further, an individual engaged in an occupation within North York Borough, and an employee of a nonresident employer may, for the purpose of this Part, 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 employee for the collection of this tax as hereinafter provided. (Ord. 74-19, 12/19/1974, §10)

§211. Administration of Tax.

1. 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

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received by him from each employer or self-employed person together with the date the tax was received.

2. The Borough Treasurer is hereby charged with the administration and enforcement of this Part 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 Part including provisions for the examination of the payroll records of any employer subject to this Part; the examination and correction of any return made in compliance with this Part 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 or North York 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 Treasurer shall have the right to appeal to the Court of Common Pleas of York County as in other cases provided.

3. The Borough Treasurer 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 and required to give the Borough Treasurer the means, facilities and opportunity for such examination.

(Ord. 74-19, 12/19/1974, §11)

§212. Suits for Collection.

1. In the event that any tax under this Part remains due or unpaid thirty (30) days after the due dates above set forth, the Borough Treasurer may sue for the recovery of any such tax due or unpaid under this Part together with interest and penalty.

2. 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.

(Ord. 74-19, 12/19/1974, §12)

§213. Fine and Penalty. Whoever makes any false or untrue statement on any return required by this Part, or who refuses inspection of his books, records or accounts in his custody and control setting forth the number of employees subject to this tax who are in his employment, or whoever fails or refuses to file any return required by this Part, shall upon conviction before any District Justice of the Peace be sentenced to pay a fine of not more than six hundred (\$600.00) dollars for each offense and/or be imprisoned in York County Prison for a period not exceeding ninety (90) days for each offense. It is further provided that the action to enforce the fine and penalty hereby provided may be instituted against any person in charge of the business of any employer who has failed or refused to file a return required by this Part. (Ord. 74-19, 12/19/1974, §13; as amended by Ord. 91-6, 6/10/1991)