

801-1

AN ORDINANCE IMPOSING A TAX FOR GENERAL REVENUE PURPOSES AT THE RATE OF TEN (\$10.00) DOLLARS FOR THE CALENDAR YEAR ON INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE LIMITS OF THE BOROUGH OF RED LION; PROVIDING FOR ITS COLLECTION; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING SAID TAX FROM EVERY INDIVIDUAL IN THEIR EMPLOY SUBJECT TO SAID TAX AND REMITTING AND PAYING OVER THE SAME TO THE COLLECTOR OF SAID TAX; CONFERRING AND IMPOSING POWERS AND DUTIES OF COLLECTION AND ADMINISTRATION OF SAID TAX; and IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED AND ENACTED by the Borough of Red Lion, York County, Pennsylvania, under the authority of the Local Tax Enabling Act, as follows:

SECTION 1: This Ordinance shall be known and may be cited as The Red Lion Borough Occupation Privilege Tax Ordinance.

SECTION 2: Definitions: The following words and phrases when used in this Ordinance shall have the meanings 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, male or female, 18 years of age or over engaged in any occupation within the limits of the Borough of Red Lion.

(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 limits of the Borough of Red Lion for which compensation is charged or received, whether by means of salary, wages, commission 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 a salary, wage, commission, fee or other compensation basis, including a self-employed person.

(d) "Tax" shall mean the occupation privilege tax levied by this Ordinance.

(e) "Collector" shall mean the person or firm from time to time designated by motion of the Borough of Red Lion to collect and administer the provisions of this Ordinance and collect the tax levied by this Ordinance.

(f) "He", "His", or "Him" shall include singular and plural number and male, female and neuter gender.

SECTION 3: Levy: Borough of Red Lion hereby levies and imposes a tax in the amount of Ten (\$10.00) Dollars for the calendar year of 1980 and every calendar year thereafter on every individual for the privilege of engaging in an occupation within the limits of the Borough of Red Lion. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough of Red Lion.

Borough of Red Lion and each employer situated outside the Borough of Red Lion, but who engages in business within the Borough of Red Lion, is hereby charged with the duty of collecting the tax from each of the employees engaged by him and performing for him within the Borough of Red Lion and making a return and payment thereof to the collector. Further, each employer is hereby authorized to deduct said tax from the salary, wages, commissions or fees paid each employee in his employ.

SECTION 5: Returns: Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the collector. Each employer in filing this return and making payment of the tax withheld from his employee shall be entitled to retain a commission calculated at the rate of two (2%) percent 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, commissions or fees 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.

SECTION 6: 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 for determining the number of employees from whom said tax shall be deducted and paid over to the Treasurer on or before July 15. A supplemental report shall be made by each employer on December 31 of new employees as reflected on his employment records from July to December 31. Payment on this supplemental report shall be made on December 31.

SECTION 7: Individuals engaged in more than one Occupation: In the event an individual is engaged in more than one occupation or an occupation which requires working in more than one political subdivision during the calendar year, the priority of claim to collect the tax shall be in the following order: First, the political subdivision in which the individual maintains his principal office or is principally employed; Second, the political subdivision in which the individual resides and works, if a like tax is levied by that political subdivision; Third, the political subdivision in which the individual is employed and which imposes the tax nearest in miles to the individual's home. The place of employment shall be determined as of the day the individual first becomes subject to a like tax during the calendar year. Any employer to whom an employee shows a receipt for a like tax for the calendar year from some other political subdivision or employer shall not be required to deduct this tax from the employee's wages, but shall include such employee on his return by setting forth his name, address and the identification of the other political subdivision to whom the tax was paid or the employer who deducted the tax.

SECTION 8: Self-employed individuals: All self-employed individuals engaged in any occupation within the Borough of Red Lion shall be required to comply with this ordinance and to pay the tax to the collector on July 15 or as soon thereafter as he engages in an occupation.

SECTION 9: Employees and self-employed individuals residing beyond the limits of Red Lion Borough. All employers and self-employed individuals residing or having their place of business outside the Borough of Red Lion, but who engage in any occupation within the Borough of Red Lion, 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 the Borough of Red Lion. Further, any individual engaged in an occupation within the Borough of Red Lion and an employee of a non-resident employer may for the purpose of this ordinance be considered as a self-employed person and in the event this tax is not paid the Township shall have the option of proceeding against either the employee or employer for the collection of this tax as hereinafter provided.

#### SECTION 10: Administration of Tax:

(a) It shall be the duty of the collector 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 collector is hereby charged with the administration and enforcement of this ordinance and is hereby empowered to prescribe, adopt, promulgate, and enforce 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. Any person aggrieved by any decision of the collector shall have the right to appeal to the Court of Common Pleas of York County as in other cases provided.

(c) The collector 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 collector the means, facilities and opportunity for such examination.

#### SECTION 11. Suit for Collection:

(a) In the event any tax under this Ordinance remains due or unpaid thirty (30) days after the due date above set forth, the collector may sue for recovery of such tax due or unpaid, together with interest and penalty.

(b) If for any reason the tax is not paid when due, interest at the rate of six (6%) percent on the amount of said tax shall be calculated beginning with the due date of said tax and a penalty of five (5%) percent shall be added to the flat rate of said tax for non-payment 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.

SECTION 12. Fine and Penalty. Whoever makes any false or untrue statement on 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 employees subject to

to file any return required by this ordinance, shall upon conviction thereon, be sentenced to pay a fine of not more than Three Hundred (\$300.00) Dollars 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.

SECTION 12: 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.

SECTION 13: Saving Clause:

(a) Nothing contained in this ordinance shall be construed to empower the Borough of Red Lion to levy and collect the tax hereby 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.

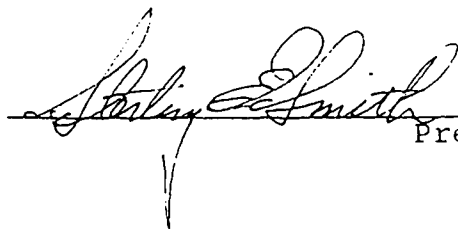
(b) If the tax hereby imposed under the provisions of this ordinance shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or 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.

ENACTED AND ORDAINED, this 9th day of January, 1980.

Attest:

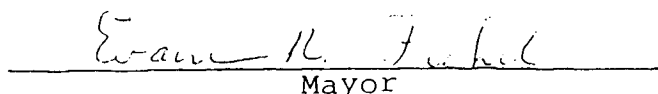
RED LION BOROUGH COUNCIL

  
Secretary

By:   
President

\* \* \* \* \*

APPROVED this 9th day of January, 1980.

  
Mayor