

RESOLUTION

SOUTH EASTERN
S. D. OPT

TO PROVIDE REVENUE BY IMPOSING A TAX ON OCCUPATIONS ENGAGED IN BY INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN SAID OCCUPATIONS WITHIN THE SOUTH EASTERN SCHOOL DISTRICT AT THE FLAT RATE OF TEN [\$10.00] DOLLARS PER YEAR; 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 OCCUPATION PRIVILEGE TAX COLLECTOR DESIGNATED BY THE SCHOOL DISTRICT; CONFERRING AND IMPOSING POWERS AND DUTIES OF ADMINISTRATION ON THE OCCUPATION PRIVILEGE TAX COLLECTOR; AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

BE IT RESOLVED by the Board of Directors, South Eastern School District, York County, Pennsylvania, and it is hereby resolved by authority of the same, acting under and by virtue of the authority conferred by the Act of Assembly of Pennsylvania, approved December 31, 1965 [Act No. 511], as amended, and known as "The Local Tax Enabling Act", as follows:

SECTION 1. Definitions: The following words and phrases, when used in this resolution 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, engaged in any occupation, trade or profession within the corporate limits of the South Eastern School District.

[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 the South Eastern School District, 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] "Occupation Privilege Tax Officer" shall mean the person, public employee or private agency designated by the governing body of the South Eastern School District to collect and administer the provisions of this ordinance.

[f] "Fiscal Year" shall mean the twelve [12] month period beginning July 1, 1970, and ending June 30, 1971.

[g] "South Eastern School District" shall mean the area encompassing the following municipalities: The Boroughs of Cross Roads, Delta, Fawn Grove, Stewartstown, and the Townships of East Hopewell, Fawn, Hopewell, and Peach Bottom, all of York County, Pennsylvania.

[h] "He", "His", or "Him" shall mean and indicate the singular and plural number as well as male, female and neuter gender.

SECTION 2. Levy. The South Eastern School District hereby levies and imposes on each occupation engaged in by individuals within its corporate limits during the fiscal year of 1970 an Occupation Privilege Tax. This tax is in addition to all other taxes of any kind or nature heretofore

levied by the South Eastern School District.

SECTION 3. Amount of Tax. Beginning with the 1st day of July, 1970, each occupation as hereinbefore defined, engaged in within the corporate limits of the South Eastern School District, 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.

SECTION 4. Duty of Employers. Each employer within the South Eastern School District as well as those employers situated outside the South Eastern School District, but who engage in business within the South Eastern School District, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the South Eastern School District the said tax of Ten [\$10.00] Dollars per annum and making a return and payment thereof to the Occupation Privilege Tax Officer. 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 the South Eastern School District.

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 Occupation Privilege Tax Officer. 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 of two [2%] per centum 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.

SECTION 6. Dates for Determining Tax Liability and Payment. Each employer shall use his employment records from the 1st day of July to the 30th day of September, 1970, for determining the number of employees from whom said tax shall be deducted and paid over to the Occupation Privilege Tax Officer on or before the 31st day of October, 1970. A supplemental report shall be made for each employee on December 31, March 31, and June 30 of the following year, for new employees as reflected on his employment records for each subsequent quarter. Payment on these supplemental reports shall be made on or before June 30, of the following year.

SECTION 7. Individuals engaged in more than one occupation. [a] Each individual who shall have more than one occupation within the South Eastern School District 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 Occupation Privilege Tax Officer, 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.

[b] In the event a person is engaged in more than one occupation, or any 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 7 [a].

SECTION 8. Self-employed individuals. All self-employed individuals who perform services of any type or kind engaged in any occupation or profession within the South Eastern School District, shall be required to comply with this resolution and pay the tax to the Occupation Privilege Tax Officer on the 1st day of January, 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 South Eastern School District 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 7 [a] and [b].

SECTION 9. Employers and Self-Employed Individuals Residing beyond the Corporate Limits of the South Eastern School District. All employers and self-employed individuals residing or having their place of business outside of the South Eastern School District, but who perform services of any type or kind, or engage in any occupation or profession within the South Eastern School District do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regula-

tions promulgated **under this** resolution with the same force and effect as though they were residents of the South Eastern School District. Further, any individual engaged in an occupation within the South Eastern School District, and an employee of a nonresident employer may, for the purpose of this resolution, be considered a self-employed person, and in the event this tax is not paid, the South Eastern School District shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

SECTION 10. Administration of Tax.

[a] It shall be the duty of the Occupation Privilege Tax Officer 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 Occupation Privilege Tax Officer 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 resolution including provisions for the examination of the payroll records of any employer **subject** to this resolution; the examination and correction of any return made in compliance with this resolution 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 South Eastern School District, 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 Occupation Privilege Tax Officer shall have the right to appeal to the Court of Common Pleas of York County as in other cases provided.

[c] The Occupation Privilege Tax Officer 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 Occupation Privilege Tax Officer the means, facilities and opportunity for such examination.

SECTION 11. Suits for Collection.

[a] In the event that any tax under this resolution remains due or unpaid thirty [30] days after the due dates above set forth, the Occupation Privilege Tax Officer may sue for the recovery of any such tax due or unpaid under this resolution together with interest and penalty.

[b] If for any reason the tax is not paid when due, interest at the rate of six [6%] per cent on the amount of said tax shall be calculated beginning with the due date of said tax and a penalty of five ^{ten (10%)} [5%] (by Board Resolution 7/19/90) per cent 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.

SECTION 12. Fine and Penalty. Whoever makes any false or untrue statement on any return required by this resolution, 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 resolution, shall upon conviction before any District Justice of the Peace be sentenced to pay a fine of not more than Three Hundred [\$300.00] Dollars for each offense and in default of payment of said fine and costs 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 resolution.

SECTION 13. Validity. The provisions of this resolution are severable and if any of its provisions shall be held invalid or unconstitutional, the decision of the court shall not effect or invalidate any of the remaining provisions. It is hereby declared to be the legislative intent that this resolution would have been adopted if such illegal, invalid or unconstitutional provision had not been included herein.

SECTION 14. Saving Clause.

[a] Nothing contained in this resolution shall be construed

to empower the School District of South Eastern to levy and collect the tax hereby imposed on any occupation not within the taxing power of the School District 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 resolution shall be held by any court of competent jurisdiction to be in 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.

SECTION 15. Effective date. This resolution shall become effective in accordance with the Act of December 31, 1965, P.L. 1257, and shall remain in effect thereafter during 1970 and subsequent years unless repealed.

SECTION 16. This resolution is enacted under the Authority of the Act No. 511, the Act of December 31, 1965 [P.L. 1257] also known as the Local Tax Enabling Act.

Attest: SOUTH EASTERN SCHOOL DISTRICT
Eda Marie Pomeroy Secretary BY *R. Rolland Morris* President

I hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by the Board of Directors of South Eastern School District at a meeting of said Board of Directors held on the 29th day of June, 1970.

Eda Marie Pomeroy
Secretary