

Part 1
Business Privilege

Section 1. Short Title.¹ This ordinance² shall be known and may be cited as the "Business Privilege Tax Ordinance."³ (Ordinance 4-73, February 14, 1973, Section 1)

Section 2. Definitions. The following words and phrases when used in this ordinance⁴ shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

(a) "Person" shall mean any individual, partnership, limited partnership, association or corporation, but shall not include a wage earner, a nonprofit corporation organized for religious, charitable or educational purposes, an association for such purposes, any agency of the Government of the United States or of the Commonwealth of Pennsylvania or any public utility.

(b) "Service" shall mean any act or instance of helping or benefiting another for a consideration.

(c) "Privilege year" shall mean the calendar year of 1973.⁵

(d) "Gross receipts" shall include both cash and credit transactions, and shall include payment received for gross charges made by the taxpayer for services rendered, including both service, labor and any materials entering into or becoming component parts of the services performed.

(e) "Tax Collector" shall mean the Tax Collector of Spring Garden Township, or his designated agent.

(f) "Temporary, seasonal or itinerant business" shall mean any business that is conducted at one location for less than sixty (60) consecutive days.

(Ordinance 4-73, February 14, 1973, Section 2)

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1. This heading and the headings of Sections 2 to 13 were part of this ordinance as enacted.
 2. Sections 1 to 13 of this chapter.
 3. Section 7(e) was repealed by Section 2 of Ordinance 23; Section 14 repealed all inconsistent ordinances and parts of ordinances; Section 15 provided that the ordinance take effect April 1, 1973.
 4. Sections 1 to 13 of this chapter.
 5. See Section 3 of this chapter.

Section 3. Authority to Levy and Collect Tax. Spring Garden Township hereby imposes a business privilege tax for the license year 1973, and continuing annually thereafter, in the manner and at the rate hereinafter set forth.⁶ Except as hereinafter provided, such tax shall be in addition to any other tax levied and collected under any existing ordinance. This ordinance⁷ is enacted under the authority of the Local Tax Enabling Act of 1965, approved December 31, 1965, P.L. 1257 as amended. (Ordinance 4-73, February 14, 1973, Section 3, as amended by Ordinance 23, December 31, 1974, Section 1)

Section 4. Imposition and Rate of Tax. Every person engaging in a business, trade, occupation or profession, hereinafter listed, in Spring Garden Township and maintaining a place, office, or establishment within Spring Garden Township for the conduct of said business, trade, occupation or profession shall pay a business privilege tax at the rate of one and one-eighth (1-1/8) mills on his gross receipts derived from all services rendered to clients, patients and customers.

Every person engaging in a business, trade, occupation or profession, hereinafter listed, in Spring Garden Township and maintaining no place, office or establishment within Spring Garden Township for the conduct of said business, trade, occupation or profession shall pay a business privilege tax at the rate of one and one-eighth (1-1/8) mills on his gross receipts derived from all services rendered within Spring Garden Township to clients, patients and customers.

The businesses, trades, occupations and professions above referred to are as follows:

Printers; lithographers; processors; laundry operators; launderette operators; warehousemen; upholsterers; doctors; lawyers; dentists; engineers; architects; chemists; chiropractors; chiropodists; certified public accountants; public accountants; real estate brokers; cleaning, pressing and dyeing establishment operators; shoe repair shop operators; tailors; dressmakers; electrical, plastering, bricklaying, carpentry, heating, ventilating, plumbing and painting contractors; contractors engaged in the classes of heavy buildings or other construction of any kind or in the alteration, maintenance or repair thereof; truckers, hauling contractors; repairers of electrical, electronic or automotive machinery or equipment or other machinery and equipment and other wares and merchandise; and all other businesses, trades, occupations and professions in which there is offered any service or services to the general public or a limited number thereof.

(Ordinance 4-73, February 14, 1973, Section 4)

6. See Section 4 of this chapter.

7. Sections 1 to 13 of this chapter.

Section 5. Determination of Gross Receipts.

(a) Every person subject to the payment of the tax hereby imposed,⁸ who has commenced his business at least one (1) full year prior to the beginning of the license year, shall determine his gross receipts for the license year from his actual gross receipts for the preceding calendar year.

(b) Every person subject to the payment of the tax hereby imposed, who has commenced his business less than one (1) full year prior to the beginning of the license year, shall determine his gross receipts for the license year by multiplying his actual gross receipts for the first month he engages in business by twelve (12).

(c) Every person subject to the payment of the tax hereby imposed, who commences his business subsequent to the beginning of the license year, shall determine his gross receipts for the license year by multiplying his actual gross receipts for the first month he engages in business by the number of months or fractions thereof he engages in business in the license year.

(d) Every person subject to the payment of the tax hereby imposed, who engages in a business temporary, seasonal or itinerant in its nature, shall determine his gross receipts for the license year from his actual gross receipts for the license year.

(e) The Tax Collector is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Township in any case where the taxpayer disputes the validity or amount of the Township's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that the Township has been overpaid, the amount of the overpayment shall be refunded to the taxpayer. The provisions of this section shall be applicable to cases in which the facts are similar to those in a case litigated in a court of competent jurisdiction.

(Ordinance 4-73, February 14, 1973, Section 5)

Section 6. Registration. Any person subject to the tax hereby imposed⁹ shall, on or before the 1st day of April or prior to commencing business in such license year, register with the Tax Collector and, having once registered with the Tax Collector, registration annually thereafter is not required. (Ordinance 4-73, February 14, 1973, Section 6)

8. See Section 4 of this chapter.

9. See Section 4 of this chapter.

Section 7. Returns.

(a) Every return shall be made upon a form furnished by the Tax Collector. Every person making a return shall certify the correctness thereof by affidavit.

(b) Every person subject to the tax imposed by this ordinance¹⁰ who commenced his business at least one (1) full year prior to the beginning of any license year shall on or before the 15th day of May, file with the Tax Collector a return setting forth his name, his business and business address, and such other information as may be necessary in arriving at his actual gross receipts during the preceding calendar year, and the amount of the tax due.

(c) Every person subject to the tax imposed by this ordinance who has commenced his business less than one (1) full year prior to the beginning of any license year shall, on or before the 1st day of April, file with the Tax Collector a return setting forth his name, his business, business address, and such other information as may be necessary in arriving at his actual gross receipts during the first month of business and the amount of tax due.

(d) Every person subject to the tax imposed by this ordinance who commences business subsequent to the beginning of any license year shall within forty (40) days from the date of commencing such business file a return with the Tax Collector setting forth his name, his business and business address, and such information as may be necessary in arriving at his actual gross receipts during his first month of business and the amount of the tax due.

(Ordinance 4-73, February 14, 1973, Section 7, as amended by Ordinance 5-73, February 28, 1973, and by Ordinance 23, December 31, 1974, Section 2)

Section 8. Payment. At the time of the filing of the return, the person making the same shall pay the amount of tax shown as due thereon to the Tax Collector. (Ordinance 4-73, February 14, 1973, Section 8)

Section 9. Powers and Duties of Tax Collector.

(a) It shall be the duty of the Tax Collector to collect and receive the taxes, fines and penalties imposed by this ordinance.¹¹ It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and the date of each receipt.

(b) The Tax Collector is hereby charged with the administration and enforcement of the provisions 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 re-examination and correction of returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred. Any person aggrieved by any decision of the Tax Collector shall have the right to appeal to a court or courts of competent jurisdiction as in other cases provided.

10. See Section 4 of this chapter.

11. Sections 1 to 13 of this chapter.

(c) Tax Collector is hereby authorized to examine the books, papers and records of any taxpayer or supposed taxpayer in order to verify the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such taxpayer, or supposed taxpayer, is hereby directed and required to give to the Tax Collector the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

(Ordinance 4-73, February 14, 1973, Section 9)

Section 10. Confidential Nature of Returns. Any information gained by the Tax Collector, or any other officer, official, agent or employe of the Township as a result of any returns, investigations, hearings, or verifications, required or authorized by this ordinance¹² shall be confidential except in accordance with proper judicial order or as otherwise provided by law, and divulgence of any information so gained is hereby declared to be a violation of this ordinance, which may be punishable by dismissal from office or employment. (Ordinance 4-73, February 14, 1973, Section 10)

Section 11. Suit on Collection; Penalty.

(a) The Tax Collector may sue for the recovery of taxes due and unpaid under this ordinance.¹³

(b) If for any reason the tax is not paid when due in each year, interest at the rate of six percent (6%) per annum on the amount of said tax, and an additional penalty of one-half of one percent (1/2 of 1%) per annum of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and interest and penalties herein imposed.

(Ordinance 4-73, February 14, 1973, Section 11, as amended by Ordinance 23, December 31, 1974, Section 3)

Section 12. Fine and Penalties. Whoever makes any false or untrue statement on his return, or who refuses to permit inspection of the books, records or accounts of any business in his custody or control, when the right to make such inspection by the Tax Collector is requested, [and whoever fails or refuses to file a return required by this ordinance],¹⁴ and whoever fails or refuses to register when so required under 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

12. Sections 1 to 13 of this chapter.

13. Sections 1 to 13 of this chapter.

14. Sections 1 to 13 of this chapter.

of payment of such fine and costs, to imprisonment for not more than thirty (30) days. Provided: each violation of any provision of this ordinance, and each day the same is continued, shall be deemed a separate offense. (Ordinance 4-73, February 14, 1973, Section 12, as amended by Ordinance 23, December 31, 1974, Section 4)

Section 13. Saving and Severability Clauses.

(a) Nothing contained in this ordinance¹⁵ shall be construed to empower the Township to levy and collect the taxes hereby imposed on any person, or any business, or any portion of any business not within the taxing power of the Township under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.

(b) If the tax, or any portion thereof, imposed upon any person 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 Commonwealth of Pennsylvania, the decision of the court shall not affect or impair the right to impose the taxes, or to the validity of the taxes so imposed upon other persons as herein provided.

(c) The provisions of this ordinance are severable, and, if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this ordinance. It is hereby declared to be the intention of the Commissioners of Spring Garden Township that this ordinance would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

(Ordinance 4-73, February 14, 1973, Section 13)

15. Sections 1 to 13 of this chapter.