



## SPRING GROVE BOROUGH

### ORDINANCE NO. 2-2000

#### **AN ORDINANCE AMENDING CHAPTER 122, ARTICLE VI OF THE CODE OF THE BOROUGH OF SPRING GROVE, YORK COUNTY, PENNSYLVANIA, AUTHORIZING AN AGENT TO COLLECT AND ENFORCE THE OCCUPATIONAL PRIVILEGE TAX IN THE BOROUGH**

WHEREAS, Spring Grove Borough (Borough) is a political subdivision of the Commonwealth of Pennsylvania, being a borough; and

WHEREAS, as a political subdivision of the Commonwealth, the Borough is authorized under the Tax Enabling Act, 53 P.S. §6901 et seq to levy, among other taxes, an occupational privilege tax; and

WHEREAS, the Borough has enacted the Code of the Borough of Spring Grove, Pennsylvania (Code) as authorized and permitted by law; and

WHEREAS, Chapter 122, Article VI of the Code enacts an occupational privilege tax; and

WHEREAS, the Borough desires to amend Chapter 122, Article VI of the Code by authorizing the appointment of a designated agent of the Borough to enforce that Article:

NOW, THEREFORE, be it ordained and enacted and it is hereby ordained and enacted as follows:

SECTION 1: Chapter 122, Article VI of the Code is amended by amending §122-70.A, by adding after the words "the borough" and before the words "may sue for the recovery of any such tax due" the phrase ", its designee or tax receiver,".

SECTION 2: Chapter 122, Article VI of the Code is amended by designating the existing text of §122-71 as subsection A., and by adding at the end thereof a new subsection B., as follows:

"B. In addition to the Borough enforcing this Section and Article, the Borough's designee and tax receiver (both of which, for purposes of this Section shall be the same entity or person); shall have the power and is hereby authorized to enforce this Article, including, but not limited to, the power to seek collection of delinquent taxes pursuant to §122-70, and to seek the imposition of penalties pursuant to this Section. The designee and tax receiver shall be appointed by Borough Council by Resolution, except that the Borough reaffirms the designee and tax receiver designated by the Borough as of the effective date of this amendment."

SECTION 3: This Ordinance shall be effective immediately as provided by law.

ORDAINED AND ENACTED this 6<sup>th</sup> day of November, 2000.

ATTEST:

SPRING GROVE BOROUGH

Todd A. Zeigler

By: Pamela J. Smith  
President

(SEAL)

I approve the within Ordinance.

By: Beverly D. Mackereth  
Mayor

RESOLUTION NO. 9-2000

**A RESOLUTION APPOINTING AND REAFFIRMING  
A DESIGNEE AND TAX RECEIVER FOR THE  
OCCUPATIONAL PRIVILEGE TAX OF THE BOROUGH**

WHEREAS, Spring Grove Borough (Borough) is a political subdivision of the Commonwealth of Pennsylvania, being a borough; and

WHEREAS, as a political subdivision of the Commonwealth, the Borough is authorized under the Tax Enabling Act, 53 P.S. §6901 et seq to levy, among other taxes, an occupational privilege tax; and

WHEREAS, the Borough has enacted the Code of the Borough of Spring Grove, Pennsylvanian (Code) as authorized and permitted by law; and

WHEREAS, Chapter 122, Article VI of the Code enacts an occupational privilege tax; and

WHEREAS, by Ordinance No. 2-2000, the Borough has authorized the appointment of a designee or tax receiver for the purposes of collecting that tax and enforcing that Article:

NOW THEREFORE, BE IT RESOLVED, and it is hereby resolved as follows:

SECTION 1: Spring Grove Borough hereby appoints York Area Earned Income Tax Bureau as both its designee and tax receiver to enforce Chapter 122, Article VI of the Code of the Borough of Spring Grove.

SECTION 2: This appointment is intended to comply with Section 2 of Ordinance No. 2-2000, adding §122-71.B of the Code. In addition, the Borough reaffirms York Area Earned Income Tax Bureau as the designee and tax receiver for the occupational privilege tax as found in Chapter 122, Article VI of the Code.

SECTION 3: This designation shall remain in effect unless and until modified, amended, or revoked by the Borough.

RESOLVED by the Council of the Borough of Spring Grove, York County, Pennsylvania on the 6<sup>th</sup> day of November, 2000.

ATTEST:

SPRING GROVE BOROUGH

Jodd A. Zeigler  
Secretary

BY: Pamela J. Smith  
President

(SEAL)

I approve the within Resolution.

By: Beverly D. Mackerseth  
Mayor

Secretary shall deem reasonably necessary and relevant to enable the borough to determine the tax ability of any person under any borough taxing ordinance now or hereafter in effect.

**§ 122-55. Violations and penalties.**

Any landlord who shall violate any of the provisions of this article shall, upon conviction thereof in a summary proceeding before a District Justice, be sentenced to pay a fine of not more than \$600 and costs of prosecution and, in default of such payment, to undergo imprisonment in the York County Prison for a period not to exceed 30 days.

**§§ 122-56 through 122-59. (Reserved)**

ARTICLE VI  
**Occupational Privilege Tax**  
 [Adopted 11-3-1997 by Ord. No. 3-1997,  
 approved 11-3-1997]

**§ 122-60. Definitions.**

The following words and phrases, when used in this article, shall have the following meanings:

**BOROUGH MANAGER** — Any person appointed to the position of Borough Manager by the Borough Council of Spring Grove.

**DESIGNEE** — Any person duly authorized, appointed and designated by the Borough Council to act on its behalf pursuant to this article.

**SECRETARY** — The person duly appointed by the Borough Council to the office of Secretary.

**TAX RECEIVER** — The person or agency designated by Borough Council by resolution for the collection of the occupational privilege tax.

**TAXPAYER** — For purposes of this article, any person over the age of 18, or who attains the age of 18 in any calendar year, and who is employed within the boundaries of the borough.

**TAX YEAR** — The calendar year beginning January 1 and ending December 31.

### **§ 122-61. Imposition of tax.**

An occupational privilege tax is hereby imposed for the tax year 1998 and each succeeding year, for general revenue purposes, of \$10 per tax year upon each taxpayer of the borough who is over 18 years of age and is in addition to any other tax imposed by the borough.

### **§ 122-62. Duty of employers.**

Each employer within the borough, as well as each employer situated outside the borough but who engages in business within the borough, is hereby charged with the duty of collecting from each of its employees engaged by it and performing services for it within the borough said tax and making a return and payment thereof to the Tax Receiver. Further, each employer is hereby authorized to deduct this tax from the wages of each such employee, whether said employee is paid by salary, wages or commissions, and whether or not all or part of such services are performed within the borough.

### **§ 122-63. Returns.**

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the

Tax Receiver. It is further provided that if the employer fails to file said return and pay said tax, whether or not it collects such tax from the salary, wages or commissions paid by it to the employee, the employer shall be responsible for the payment of the tax in full, as though the tax had originally been levied against it.

**§ 122-64. Collection priority of claim.**

- A. In the event that 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:
- (1) The political subdivision in which a person maintains his principal office or is principally employed.
  - (2) The political subdivision in which the person resides and works, if such a tax is levied by that political subdivision.
  - (3) The political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.
- B. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the tax year.

**§ 122-65. Self-employed individuals.**

All self-employed individuals who perform services of any type or kind, or are engaged in any occupation or profession within the borough, shall be required to comply with this article and pay the tax to the Tax Receiver on or before April 30 of each tax year or if thereafter, within 30 days after he performs services or engages in an occupation or profession.

**§ 122-66. Employers and self-employed individuals residing beyond the municipal limits of borough.**

All employers and self-employed individuals having their place of business outside of the borough, but who perform services of any or kind or engage in any occupation or profession within the borough, do agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the borough. Further, any individual engaged in an occupation or profession within the borough and an employee of a nonresident employer may, for the purpose of this article, 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 herein provided.

**§ 122-67. Exemption.**

An individual earning less than an aggregate of \$2,000 during the tax year is hereby exempted from the payment of this tax.

**§ 122-68. Dates for determining tax liability and making payments.**

Commencing January 1, 1998, and for each tax year thereafter, each employer shall use its employment records from the first day of January to the 31st day of March of each tax year for determining the number of employees from whom the tax shall be deducted and shall pay over those amounts to the Tax Receiver on or before April 30 of each tax year. Each employer shall use its employment records from April 1 to June 30 of each tax year as to employees who have not previously paid this tax in the tax year for determining the number of employees from whom the tax

shall be deducted and shall pay over said tax to the Tax Receiver on or before July 31 of each tax year. Each employer shall use its employment records from July 1 to September 30 of each tax year as to employees who have not previously paid this tax in the tax year for determining the number of employees from whom the tax shall be deducted and shall pay over said tax to the Tax Receiver on or before October 31 of each tax year. Each employer shall use its employment records from October 1 to December 31 of each tax year as to employees who have not previously paid this tax in the tax year for determining the number of employees from whom the tax shall be deducted and shall pay over said tax to the Tax Receiver on or before January 31 of the next tax year.

**§ 122-69. Collection and administration of tax.**

- A. Each employer who files a return and remits to the Tax Receiver payment of the tax withheld and due from its employees shall be entitled to retain a commission calculated at the rate of 2% of the gross tax due and payable, provided that such tax is collected and paid by the employer on or before the dates set forth in § 122-68.
- B. It shall be the duty of the Tax Receiver to accept and receive payments of this tax and to keep a record thereof showing the amount received by him or her from each employer and self-employed person, and the employee for whom the tax was paid, together with the date the payment was received.
- C. The Tax Receiver is hereby authorized to examine the books and payroll records of any employer or self-employed person in order to verify the accuracy of any return made by the employer or self-employed person or, if no return was made, to ascertain the tax due. Each employer or self-employed person is hereby

directed and required to give the Tax Receiver the means, facilities and opportunity for such examination.

**§ 122-70. Collection of delinquent taxes.**

- A. In the event that any tax under this article remains due or unpaid 30 days or more after the due dates set forth in § 122-68, the borough may sue for the recovery of any such tax due or unpaid under this article together with interest as provided in this section.
- B. All taxes imposed by this article which are not paid when due shall bear interest at the rate of  $\frac{1}{2}$  of 1% per month on the amount of the tax, until paid. 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 as permitted by law.
- C. In the event that the employer fails to withhold and pay to the Tax Receiver all taxes due under this article, then the employer shall be responsible and liable for payment of said tax, whether or not the employer is thereafter able to recover said tax from the employee.

**§ 122-71. Violations and penalties.**

Whoever makes any false or untrue statement on any return required by this article, or who refuses inspection of his or her books, records or accounts setting forth the number of employees subject to this tax who are in his or her employment, whoever fails or refuses to file any return required by this article, or whoever fails to remit taxes due pursuant to this article, shall, upon conviction before any District Justice, be sentenced to pay a fine of not more than \$600 for each offense and, in default of payment of said fine, be imprisoned for a period not exceeding 30 days for each offense. Each such failure shall be considered a separate offense. It is further provided that the action to enforce the penalty provided in this section may be instituted against any

person in charge of the business of any employer who has failed or refuses to file a return or to remit payments as provided by this article. Nothing contained in this section shall preclude the borough, in addition to this section, from pursuing compliance of this article by all other means set forth in this article or as permitted by law.

**§ 122-72. Severability; construal of provisions.**

- A. The provisions of this article are severable, and, if any of its provisions shall be held invalid or unconstitutional, the remaining provisions of this article shall be given their full force and effect and shall not be affected or invalidated by such action. It is hereby declared to be the legislative intent that this article would have been adopted if such illegal, invalid or unconstitutional provision had not been included herein.
- B. Nothing contained in this article shall be construed to empower the borough to levy and collect the tax hereby imposed on any occupation not within the taxing power of the borough under the laws and Constitution of the United States of America and the laws and Constitution of the Commonwealth of Pennsylvania.
- C. If the tax imposed under this article shall be held by any court of competent jurisdiction to be in violation of the laws or the Constitution of the United States of America or the laws or Constitution of the Commonwealth of Pennsylvania as to any individual or group, such invalidity shall not affect or impair the right to impose or collect said tax so imposed on other individuals or groups as herein provided.