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ARTICLE II. Occupational Privilege Tax

[Adopted 4-1-1971 by Ord. No. 1971-01; amended in its entirety 1-9-2003 by Ord. No. 2003-02 (Ch. 24, Part 4, of the 2003 Code)]

§ 300-13. Short title.

This article shall be known and may be cited as the "Occupational Privilege Tax Ordinance."

§ 300-14. Definitions.

A. The following words and phrases when used in this article shall have the meaning ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

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 individuals.

FISCAL YEAR

The twelve-month period beginning January 1 and ending December 31.

INDIVIDUAL

Any person, male or female, engaged in any occupation within the Township.

OCCUPATION

Any trade, profession, business, employment or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the Township for which compensation is charged or received whether by means of salary, wages, commissions or fees, for services rendered.

TAX

The occupational privilege tax in the amount of \$10 imposed by this article.

TAX COLLECTOR

The person, public employee, public agency or private agency designated by resolution of the Board of Supervisors to collect and administer the tax imposed by this article.

TOWNSHIP

Springettsbury Township, York County, Pennsylvania, and all of the area within its corporate limits.

B. The pronouns "he," "she" or "him" shall mean and indicate the singular and plural number as well as the male and female gender or the neuter.

§ 300-15. Levy of tax.

The Township hereby levies and imposes, on each occupation engaged in by individuals within the Township, an Occupation Privilege Tax which shall be in addition to all other taxes of any kind or nature heretofore levied by the Township; provided,

however, that any individual whose gross annual income from all occupations, whether or not engaged within the Township, shall be less than \$1,000, shall be exempt from the tax hereby levied and imposed. This levy shall continue in force on a calendar-year basis without annual reenactment unless the rate is subsequently changed.

§ 300-16. Rate of tax.

Every individual engaged in an occupation as hereinbefore defined within the corporate limits of the Township shall be subject to an Occupational Privilege Tax in the amount of \$10 per annum, said tax to be paid by the individual so engaged.

§ 300-17. Duty of employers.

Each employer within the Township, as well as an employer situated outside the Township, who engages in business within the Township is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him an occupation within the Township, the said tax of \$10 per annum and making a return and payment thereof to the Treasurer.

Such employer is hereby empowered and authorized to deduct and withhold said tax from the compensation of such employee whether the same be salary, wages, commissions or fees and whether or not all such employee's services are performed within the Township.

§ 300-18. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Township Clerk. Each employer in filing his return and making payment of the tax withheld from his employees shall be entitled to retain a commission calculated at the rate of 2% of the gross tax due and payable on such return; provided, that such tax is collected and paid to the Tax Collector by the employer on or before the dates hereinafter set forth. If the employer fails to file said return and pay said tax when due, whether or not he makes collection thereof from his employees, the employer shall be liable for the payment of the tax in full the same as if the tax had originally been levied and imposed against him and he shall not be entitled to deduct a commission for collection.

§ 300-19. Dates for determining tax liability and payment.

Each employer shall use his/her employment records from the first day of January to the 31st day of March for determining the number of employees from whom said tax shall be deducted and paid over to the Tax Collector on or before April 30.

Supplemental reports shall be made by each employer on July 31, October 31 and January 31 of the following year of new employees as reflected on his/her employment records from April 1 to June 30, July 1 to September 30 and October 1 to December 31. Payments on these supplemental reports shall be made on July 31, October 31 and January 31 of the following year, respectively.

§ 300-20. Multiple occupations and priority of claim.

A. Each individual who shall have more than one occupation within the Township shall be subject to the payment of the tax levied on his principal occupation and his principal employer shall deduct the tax and deliver to him evidence of the deduction on a form to be furnished to the employer by the Tax Collector, which form shall be evidence of the deduction having been made and which when presented to any other employer shall be authority for such employer to not deduct the tax from the employees compensation; provided, however, that such employer shall include such employee on his next return to the Tax Collector by setting forth his name, address and the name and account number of the employer who deducted the tax.

B. In the event an individual is engaged in more than one occupation, or an occupation which requires his working in more than one political subdivision during the fiscal year, the priority of claim to collect the tax herein imposed shall be in the following order:

- (1) The political subdivision in which the individual maintains his principal office or is principally employed.
- (2) The political subdivision in which the individual resides and works, if an occupational privilege tax is levied by that political subdivision.
- (3) The political subdivision in which the individual is employed and which imposes such tax nearest in miles to the individual's home.

The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the fiscal year; provided, however, that should the occupational privilege tax of any other political subdivision having a priority claim over the Township be in an amount of less than \$10 annually, the individual shall be liable to the Township for an amount equal to the difference between such tax and the sum of \$10. It is the intent of this article that no individual shall pay more than \$10 in any calendar year as an occupational privilege tax, irrespective of the number of political subdivisions within which such individual 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 shall constitute prima facie certification of payment to all other political subdivisions.

§ 300-21. Self-employed individuals.

All self-employed individuals engaged in any occupation or profession and performing services of any type or kind within the Township shall be required to comply with this article and pay the tax herein levied to the Tax Collector on April 30 or as soon

thereafter as he engages in an occupation or profession. In the event a self-employed individual is engaged in more than one occupation or profession within or without the Township or in an occupation or profession 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 § 300-20A and B.

§ 300-22. Nonresident employers.

All employers and self-employed individuals residing or having their place of business outside of the Township, but who perform services of any type or kind or engage in any occupation or profession within the Township, do by virtue thereof 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 Township. Further, any individual engaged in an occupation within the Township and an employee of a nonresident employer may, for the purposes of this article, be considered a self-employed individual and in the event the tax is not paid, the Township shall have the option of proceeding against either the employer or employee for the collection of the tax as hereinafter provided.

§ 300-23. Administration of tax.

A. It shall be the duty of the Tax Collector to accept and receive payments of the tax and to keep a record thereof showing the amount received by him from each employer or self-employed individual, together with the date the tax was received.

B. The Tax Collector is hereby charged with the administration and enforcement of this article and is hereby authorized and empowered to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of the payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, or any payment made by a taxpayer who is exempt from the tax by reason of his gross annual income having been less than \$1,000. Any person aggrieved by any decision of the Tax Collector shall have the right to appeal to the Court of Common Pleas of York County as in other cases provided.

C. The Tax Collector is hereby authorized to examine the books and payroll records of any employer to verify the accuracy of any return made by an employer or, if no return was made, to ascertain and assess the tax due. Each employer is hereby directed and required to give the Tax Collector the means, facilities and opportunity for such examination.

§ 300-24. Suit for collection; interest; penalty.

A. In the event that any tax under this article remains unpaid 30 days after the date it was due and payable, the Tax Collector may sue for the recovery of any such tax due and unpaid, together with interest and penalty.

B. If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax shall be calculated beginning from the due date of said tax and a penalty of 5% shall be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of the tax, the individual liable therefor shall, in addition thereto, be responsible and liable for the costs of collection.

§ 300-25. Enforcement and remedies.

Enforcement notice.

A. If it appears to the Township that a violation of this article has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided by Act 50 of 1998 (the Taxpayers Bill of Rights Editor's Note: See 53 Pa. C.S.A. § 8421 et seq.) and by such rules and procedures as may be established by resolution of the Board of Supervisors.

B. Each day that a violation continues or each section of this article which shall be found to have been violated shall constitute a separate offense. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this article shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment as calculated below, plus all court costs, including reasonable attorney fees incurred by the Township. The amount of the judgment shall be calculated by imposing a civil enforcement penalty of \$50 per day for each section of this article violated, for each day of the violation. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section.

D. For purposes of calculating the number of days which a violation has occurred, the first day of the violation will be the day immediately following the date of required compliance set forth in the enforcement notice defined in the previous section.

E. District justices shall have initial jurisdiction over the proceedings brought under this section.