

INDEX TO OCCUPATIONAL PRIVILEGE TAX

**RULES AND REGULATIONS**

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## **PREFACE**

The following rules and regulations have been prepared by West Manchester Township to outline the Occupational Privilege Tax and the responsibility it places on employers and employees located within the local taxing district. This supplement is not independent, but should be read in conjunction with the appropriate ordinance and/or resolution. Should there be any conflicts, the statement in the ordinance and/or resolution will prevail.

# **WEST MANCHESTER TOWNSHIP**

## **Occupational Privilege Tax**

### **RULES AND REGULATIONS**

#### **1. LEVY**

The occupational privilege tax is levied upon the privilege of engaging in an occupation within the district. Each natural person who exercises such a privilege for any length of time during the tax year is liable for this tax, upon earning \$2,000. Unless he has previously paid equivalent to \$10 in occupational privilege taxes for the calendar year to another taxing body within the Commonwealth of Pennsylvania.

#### **2. EXCLUSIONS FROM DEFINITION OF OCCUPATION**

The following activities, employment, and jobs will generally not be considered occupations as defined in the ordinance and/or resolution:

- A. Active service in the Armed Forces:
- B. Involuntary employment imposed by law; and
- C. Isolated employment that does not constitute a substantial exercise with the privilege of engaging in an occupation. Isolated employment means that any employment that is so inconsequential or trivial that to levy a tax on the occupation would be confiscatory. Some examples include occupations performed by itinerants, election boards and traveling entertainment.

#### **3. DUTIES OF EMPLOYERS**

- A. Each employer doing business within this district is required to register with the tax collector and to deduct this tax from the compensation paid to each employee subject to tax.
- B. All persons who engage in an occupation, full or part time, within the district must pay this tax upon earning \$2,000, including: (1) self-employed persons and individuals who work or perform an occupation within the district; (2) persons assigned to an office, warehouse, or headquarters within the district; (3) persons who have not previously paid an occupation privilege tax of \$10 for the calendar year.

- C. Employer will report the total tax due and withheld on form OPT-1. This will be accompanied by copy A of form OPT-2 for each employee from whom the tax had been withheld. Copy B is to be retained by the employer, and copy C of form OPT-2 is given to the employee as his "Evidence of Deduction Certificate."
- D. The OPT-1 form must be filed each quarter whether there are any new employees or not. If no new employees, this information must be indicated on the OPT-1 and returned to the tax collector.

#### **4. PAYMENT OF THE TAX**

- A. The tax payments must be paid to the tax collector in one sum, not in installments, regardless of the method used for withholding by the employer. For example, where an employer decides to withhold the tax in installments and the payment is due before the entire amount is withheld, the employer must nevertheless remit the full amount to the tax collector.
- B. No taxpayer shall be required to pay in excess of \$10.00 plus penalties, interest and costs for any calendar year. This, however, does not relieve the taxpayer or his employer from filing the proper returns.

#### **5. DUE DATES**

- A. Each taxpayer or employer who becomes subject to the tax or the withholding provisions of the ordinance and/or resolution shall file the required returns and pay the tax due on or before April 30, July 31, October 31 or January 31 of the subsequent year for those persons, employed since the prior reporting period.
- B. The actual due date shall be determined as the due date that first occurs at least thirty days after the taxpayer first becomes subject to the tax.
- C. Returns are due on the dates indicated in Section A in accordance with the following rules:
  - (1) Returns mailed to the tax collector will be considered timely if postmarked on the date indicated on the ordinance and/or resolution.
  - (2) When the date occurs on a Saturday, a Holiday or a Sunday, the returns are due the next business day.

## **6. EMPLOYERS NOT SUBJECT TO WITHHOLDING**

- A. The tax is applicable to employees of the state and federal government or their agencies, commissions, and so on, even though their employers may not be required to withhold the tax.
- B. All individuals whose employers are not subject to the withholding requirements will be considered self-employed and will pay the tax on an individual basis in accordance with the regulations.

## **7. SELF-EMPLOYED PERSONS**

- A. All persons who engage in an occupation, full or part time, within the district must pay this tax, including: (1) self-employed persons and individuals who work or perform an occupation within the district. (2) Persons who are assigned to an office, warehouse, or headquarters located within the district.
- B. Taxables whose employers do not withhold the tax or who are self-employed must complete form OPT and return tax collector's copy on or before April 30<sup>th</sup>, or at least 30 days after the taxpayer first becomes subject to the tax, unless another due date is designated on the form.
- C. Self-employed individuals will report their tax on form OPT. For the purpose of these regulations, self-employed persons will include self-employed federal employees, people whose employer is not subject to the withholding requirements and domestics.
- D. All self-employed persons subject to the tax must register with the tax administrator within 10 days after they initiate an occupation in the district.

## **8. EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS WHOSE BUSINESS IS OUTSIDE THE DISTRICT**

- A. The place of employment shall be determined as of the first day the taxable becomes subject to the tax during the calendar year.
- B. Persons in transit such as fieldmen and salesmen will be considered taxable if they perform any portion of their services within the district.
  - (1) If the headquarters are located within the taxing district and the employee may perform some portion of their services outside the taxing district, they are taxable provided they report into the headquarters for assignments.

- (2) If the employee does not report into the headquarters located in the taxing district, but receives his assignment via telephone or by mail, they would be exempt from the tax.
- C. Exemption from the tax is granted to any person who is liable and has already paid occupational privilege taxes totaling \$10.00 for the same calendar year to another Pennsylvania Community prior to his becoming subject to this tax.
- D. Where a person is engaged in more than one occupation that requires his working in more than one political subdivision during the calendar year, the priority of the claim shall be based on the political subdivision in which the person maintains his principal office or is principally employed.

### **9. CLAIMS FOR REFUNDS**

- A. Refunds arising from the earnings exemption shall be processed according to the following rules:
  - (1) Claims will be accepted only after the close of the calendar year in which the earnings are represented to be less than the minimum.
  - (2) Such claims must be presented within twelve months following the year tax was due.
  - (3) The claim must be prepared on a form designated by the tax collector and must be accompanied by a true copy of the claimant's Federal Income Tax Return together with the applicable Federal Forms W-2 and any other certification required by the tax collector or his deputies.
  - (4) In the event the claimant is not required to file a Federal Income Tax return, any other certification desired by the tax collector must be submitted before any refund will be made.
- B. Claims for refunds of taxes erroneously withheld or paid must be filed in accordance with the above requirements.
- C. The burden of proof of prior payment is on the taxable and must be submitted to the satisfaction of the tax collector.
- D. The minimum income is not restricted to the taxable's earning in this district. It applies to the total earnings in all communities during the calendar year.

## **10. ADDITIONAL REGULATIONS AND RULES**

The tax collector, as occupational privilege tax collector, reserves the right to issue additional rules as circumstances demand and to interpret these regulation and rules on the basis of each individual case.

## **11. FORMS AND COPIES OF REGULATIONS, ORDINANCES AND /OR RESOLUTIONS**

- A. All necessary forms will be supplied by the tax collector upon request.
- B. Failure to receive copies of forms, regulations, ordinances, resolutions, and so on, does not relieve any person or employer from his obligation to pay the tax and/or file the required forms.
- C. All payments and reports must be made on properly executed forms as required by this office, unless written authorization is given for use of alternative forms.
- D. All payments and inquiries are to be referred to the tax collector.

**WEST MANCHESTER TOWNSHIP  
YORK COUNTY, PENNSYLVANIA**

**ORDINANCE NO 81-1  
81-6**

**AN ORDINANCE IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON EACH INDIVIDUAL FOR THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE MUNICIPAL LIMITS OF THE TOWNSHIP OF WEST MANCHESTER AT THE RATE OF TEN DOLLARS (\$10.00) PER YEAR; PROVIDING FOR ITS COLLECTON; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING SAID TAX FROM THE INDIVIDUAL IN THEIR EMPLOY SUBJECT TO SAID TAX AND REMITTING AND PAYING OVER THE SAME TO THE TOWNSHIP RECEIVER AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.**

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**BE IT ENACTED AND ORDAINED** by the Township of West Manchester, and it is hereby enacted and ordained by authority of the same and pursuant to the provisions of the Act of December 31, 1965, P.I. 1257, entitled "The Local Tax Enabling Act", as amended.

**Section 1. DEFINITIONS**

The following words and pharase, when used in this Ordinance, shall have the meanings described 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 limits of the Township of West Manchester.
- (b) "Occupation" shall mean any trade, profession, business, or undertaking of any type, kind of character, including services, domestic or other, carried on or performed within the corporate limits of the Township of West Manchester 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 a salary, wage, commission or other compensation basis, including a self-employed person.

- (d) "Tax" shall mean the Occupation Privilege Tax in the amount of Ten Dollars (\$10.00) levied by this Ordinance.
- (e) "Receiver" shall mean the Receiver of Taxes appointed by the Supervisors of the Township of West Manchester, or other persons designated by the Township of West Manchester for collection and enforcement of this Tax.
- (f) "Tax Year" for the calendar year 1981 shall mean the period beginning March 1 and ending December 31, 1981 and shall, thereafter, mean the calendar year.
- (g) "Township of West Manchester" shall mean the area within the municipal limits of the Township of West Manchester.
- (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 Township of West Manchester hereby levies and imposes on each individual engaged in any occupation during the tax year within the municipal limits of the Township of West Manchester an Occupational Privilege Tax. This tax is in addition to all other taxes of any kind and nature heretofore levied by the Township of West Manchester.

## Section 3. AMOUNT OF TAX

Beginning with the first day of March, 1981, and each year thereafter, each individual engaged in an occupation as hereinbefore defined within the Township of West Manchester for any length of time during the tax year shall be required to pay an Occupational Privilege Tax in the amount of Ten Dollars (\$10.00).

## Section 4. DUTY OF EMPLOYERS

Each employer within the Township of West Manchester, as well as each employer situated outside the Township of West Manchester but engages in business within the Township of West Manchester is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Township of West Manchester the said tax of Ten Dollars (\$10.00) per annum and making a return and payment thereof to the Receiver of Taxes. 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 commissions and whether or not part of all such services are performed within the Township of West Manchester.

#### 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 Receiver of Taxes. 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, as though the tax had originally been levied against him.

#### Section 6. DATES FOR DETERMINING TAX LIABILITY AND PAYMENT

During the calendar year 1981 each employer shall use his employment records from the first day of March to the 31<sup>st</sup> day of May for determining the number of employees from whom this tax shall be deducted and paid over to the Receiver of Taxes on or before June 30, 1981 to September 30, 1981. As to employees who have not previously paid this tax for determining the number of employees from whom the tax shall be deducted and paid over to the Receiver of Taxes on or before October 31, 1981. Each employer shall use his employment records from October 1, 1981 to December 31, 1981 as to employees who have not previously paid this tax for determining the number of employees from whom the tax shall be deducted and the number of employees from whom the tax shall be deducted and paid over to the Receiver of Taxes on or before January 31, 1982. Commencing with the calendar year 1982 and for each tax year thereafter each employer shall use his employment records from the first day of January to the 31<sup>st</sup> day of March of each tax year for determining the number of employees from whom the tax shall be deducted and paid over to the Receiver of Taxes on or before April 30 of each tax year. Each employer shall use his employment records from April 1 to June 30 of each tax year as to employees who have not previously paid this tax for determining the number of employees from whom the tax shall be deducted and paid over to the Receiver of Taxes on or before July 31 of each tax year. Each employer shall use his employment records from July 1 to September 30 of each tax year as to employees who have not previously paid this tax for determining the number of employees from whom the tax shall be deducted and paid over to the Receiver of Taxes on or before October 1 to December 31 of each tax year as to employees from whom the tax shall be deducted and paid over to the Receiver of Taxes on or before January 31 of the next calendar year.

**Section 7. INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION OR AN OCCUPATION WHICH REQUIRES WORKING IN MORE THAN ONE POLITICAL SUBDIVISION DURING THE CALENDAR YEAR**

In the event 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 a like tax is levied by that subdivision).
3. 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.

**Section 8. EXEMPTION**

An individual earning less than an aggregate of \$2,000.00 within the tax year is hereby exempted from the payment of this tax.

**Section 9. SELF-EMPLOYED INDIVIDUALS**

All self-employed individuals who perform services of any type or kind, engaged in any occupation or profession within the Township of West Manchester shall be required to comply with this Ordinance and pay the tax to the Receiver of Taxes on or before June 30 of each tax year, or as soon thereafter as he engages in an occupation.

**Section 10. EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS RESIDING BEYOND THE MUNICIPAL LIMITS OF THE TOWNSHIP OF WEST MANCHESTER**

All employers and self-employed individuals residing or having their place of business outside of the Township of West Manchester but who perform services of any type or kind, or engage in an occupation or profession within the Township of West Manchester 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 Township of West Manchester. Further, any individual engaged in an occupation within the Township of West Manchester and an employee of a non-resident employer may, for the purpose of this Ordinance, be considered a self-employed person, and in the event this tax is not paid, the Township shall have the option of proceeding against either the employer or employee for the collection of this tax as herein provided. 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 percent (2%) 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.

#### Section 11. ADMINISTRATION OF TAX

- (a) It shall be the duty of the Receiver of Taxes 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 and the tax was received.
- (b) The Receiver of Taxes 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 Receiver of Taxes the means, facilities and opportunity for such examination.

#### Section 12. COLLECTION OF DELINQUENT TAXES

- (a) In the event any tax under this Ordinance remains due or unpaid thirty (30) days after the due dates above set forth, the Township may sue for the recovery of any such tax due or unpaid under this Ordinance together with interest as herein provided.
- (b) All taxes imposed by this Ordinance which are not paid when due shall bear interest at the rate of ONE-HALF of One Per cent per month until paid, on the amount of the tax. Where suit is brought for the recovery of this tax, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection.

- (c) The Receiver of Taxes shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms, or individuals employing persons owing delinquent occupational privilege taxes or whose wife owes delinquent occupational privilege taxes or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent occupational privilege taxes or whose wife owed delinquent occupational privilege taxes upon the presentation of a written notice and demand certifying that the information contained therein is true and correct and containing the name of the taxable individual or the husband thereof and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, association, company, firm or individual, to deduct from the wages, commissions or earnings of such individual employees, owing or that shall within 60 days thereafter become due, or from any unpaid commissions or earning of any such taxable in its or his possession, or that shall within 60 days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the delinquent occupational privilege taxes and costs, shown upon the written notice or demand, and to pay the same to the Receiver of Taxes of the Township of West Manchester in which such delinquent tax was levied within 60 days after such notice shall have been given. Such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the monies collected for delinquent occupational privilege taxes from each employee and cost incurred from the extra bookkeeping necessary to record such transactions, not exceeding 2% of the amount of money so collected and paid over to the Receiver of Taxes. Upon the failure of any such corporation, political subdivision, association, company, firm or individual to deduct the amount of such delinquent occupational privilege tax or to pay the same over to the Receiver of Taxes, less the cost of bookkeeping involved in such transaction, as herein provided, within the time hereby required, such corporation, political subdivision, association, company, firm or individual shall forfeit and pay the amount of such delinquent occupational privilege tax are so withheld and paid over, or that are withheld and not paid over together with a penalty of 10% added thereto, to be recovered by an Action in Assumpsit in a suit to be instituted by the Receiver of Taxes, or by the proper authorities of the Township of West Manchester, as debts of like amount as now or by law recoverable except that such person shall not have the benefit of any stay or exemption law.
- (d) Upon presentation of a written notice and demand under oath or affirmation to the State Treasurer or any other fiscal officer of the State or its boards, authorities, agencies or commissions, it shall be the duty of the

Treasurer or officer to deduct from the wages then owing or that within 60 days thereafter shall become due to any employee a sum sufficient to pay the respective amount of the delinquent occupational privilege tax and costs shown on the written notice. The same shall be paid to the Receiver of Taxes of the Township of West Manchester in which political subdivision the said delinquent occupational privilege tax was levied, within 60 days after such notice shall have been given.

#### Section 13. FINE AND PENALTY

Whoever makes any false or untrue statement on any return required by this Ordinance, or who refuses inspection of his book, 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 Ordinance, shall, upon conviction before any District Magistrate be sentenced to pay a fine of not more than Three Hundred Dollars (\$300.00) for each offense and in default of payment of said fine be imprisoned for a period not exceeding Thirty (30) days for each offense. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refuse to file a return as provided by this Ordinance.

#### Section 14. 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 15. SAVING CLAUSE

- (a) Nothing contained in this Ordinance shall be construed to empower the Township of West Manchester to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Township 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 so imposed on other persons or individuals as herein provided.

**Section 16. EFFECTIVE DATE**

**This Ordinance shall become effective March 1, 1981 and shall remain in force and effect thereafter, from year to year on a tax year basis.**

**ORDAINED AND ENACTED this                      day of                      , 1981**

\_\_\_\_\_  
**Chairman of the Board of Supervisors**

**ATTEST:**

\_\_\_\_\_  
**Secretary**