

ORDINANCE NO. 86-12

AN ORDINANCE OF YORK TOWNSHIP, YORK COUNTY, PENNSYLVANIA, TO PROVIDE REVENUE FOR GENERAL TOWNSHIP PURPOSES BY IMPOSING A BUSINESS PRIVILEGE TAX UPON PERSONS AS DEFINED IN THIS ORDINANCE; PROVIDING FOR ITS LEVY AND COLLECTION; IMPOSING DUTIES AND CONFERRING POWERS UPON THE TAX COLLECTOR OF YORK TOWNSHIP; PROVIDING CERTAIN EXEMPTIONS; AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED and enacted by the Commissioners of York Township, York County, Pennsylvania, under the authority of Act 511; approved December 31, 1965, as amended, and it is hereby ordained and enacted by the authority of the same as follows:

Section 1. Short Title. This Ordinance shall be known and may be cited as the "Business Privilege Tax Ordinance".

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

(a) "Township" shall mean the Township of York.

(b) "Person" shall mean any individual, partnership, limited partnership, association or corporation, non-profit or otherwise. Whenever used in any section prescribing a fine or a penalty, the term "person" as applied to partnerships, shall mean the partners thereof, and as applied to corporations and unincorporated associations, shall mean the officers thereof.

(c) "Business" shall mean carrying on or exercising whether for gain or profit or otherwise within the Township of York any trade, business, including but not limited to financial business as hereinafter defined, profession, vocation, service, construction, communication or commercial activity, or making sales to persons or rendered services from or attributable to a York Township office or place of business. "Business" shall not include the following: any business which is subject to the Township of York mercantile tax on its entire gross receipts; the business of any political subdivision; any employment for a wage or salary; and business upon which the power to levy a tax is withheld by law.

(d) "Financial business" shall mean the services and transactions of banks and bankers, trust credit and investment companies, where not prohibited by law, holding companies, dealers and brokers in money, credits, commercial paper, bonds, notes, securities and stocks, monetary metals, factors and commission merchants.

(e) "Tax year" shall mean the twelve-month period beginning the first day of January in each and every year.

(f) "Gross receipts" shall mean cash, credit, property of any kind or nature, received or allocable or attributable to business conducted in the Township without deduction therefrom, on account of the cost of property sold, the material used, labor, service or any other cost of doing business. Gross receipts shall exclude:

(1) amount of any allowance made for goods, wares or merchandise taken by a dealer as trade-in or as part payment for other goods, wares and merchandise except to the extent that the resale price exceeds the trade-in allowance;

(2) refunds, credits or allowances given by a taxpayer to a purchaser on account of defects in goods, wares or merchandise, sold or on account of goods, wares or merchandise returned;

(3) in the case of financial business, costs of security on other property as it is sold, exchanged, paid at maturity, or redeemed and money or credit received in repayment of advances, credits and loans; provided, such costs do not exceed the principal amount of such advances, credits or loans;

(4) in the case of a broker, commissions paid to another broker on account of purchases in conjunction with such broker;

(5) receipts by dealers from sales to other dealers in the same line where the dealer transfers title or possession at the same price for which he acquired the goods;

(6) receipts for that portion of business attributable to interstate or foreign commerce or to a bona fide office or place of business regularly maintained outside the limits of the Township and not for the purpose of evading this tax. Such receipts shall be segregated on the tax return and only that part of receipts attributable to doing business in the

Township shall be taxed hereunder; provided, the taxpayer shall keep adequate books and records of his business to show clearly, accurately and separately the amount of such sales he is entitled to deduct from the gross volume in order to obtain this exclusion;

(7) taxes collected as agent for the United States, the Commonwealth of Pennsylvania and/or York Township;

(8) receipts from utility service of any person or company whose rates of service are filed and regulated by the Pennsylvania Public Utility Commission; or from any public utility service rendered by any such person or company or from any privilege or transaction involving the rendering of any such public utility service;

(9) receipts from goods and articles manufactured in the Township, from the by-products of such manufacture, from minerals, timber, natural resources and farm products manufactured, produced or grown in the Township, or from preparation and processing thereof, or from any business relating to manufacturing, production, preparation or processing of minerals, timber and natural resources or farm products by manufacturers, producers and farmers with respect to goods, articles and products of their own manufacture, production or growth including transportation, loading, unloading, dumping and storage of such goods, articles, products or by-products.

(g) "Tax Collector" shall mean a Tax Collector duly appointed by the Board of Commissioners of York Township for the purpose of collecting this tax.

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

Section 3. Imposition and Rate of Tax - Beginning with the tax year 1987 and annually thereafter, every person engaging in any business in the Township shall pay an annual tax at the rate of one (1) mill on each dollar of volume of the gross annual receipts thereof.

Section 4. Computation of Gross Amount Receipts -

(a) Every person subject to the payment of the tax hereby imposed who has commenced his business at least one (1) full year prior to the beginning of any tax year shall compute

his annual gross receipts upon the actual receipts received by him during the preceding calendar year.

(b) Every person subject to the payment of the tax hereby imposed who has commenced or who commences his business less than one (1) full year prior to the beginning of any tax year shall compute his annual gross receipts for such tax year upon the gross receipts generated by the business transacted within the Township during the first month he engages in such business activity multiplied by twelve (12).

(c) Where a receipt in its entirety cannot be subjected to the tax imposed by this Ordinance by reason of the provisions of the Constitution of the United States, or any other provision of law, including the exemptions within this Ordinance, the Tax Collector shall establish rules and regulations and methods of allocation and evaluation so that only that part of such receipt which is properly attributable and allocable to the doing of business in the Township shall be taxed hereunder. The Tax Collector may make such allocation with due regard to the nature of the business concerned on the basis of mileage division of the receipt according to the number of jurisdictions in which it may be taxed, the ratio of the value of the property or assets of the taxpayer owned and situated in the Township to the total property or assets of the taxpayer wherever owned and situated, or any other method or methods of calculation to effect a fair and proper allocation.

(d) Every person subject to the payment of the tax hereby imposed who engages in a business, temporary, seasonal or itinerant by its nature, shall compute his annual gross receipts upon the actual gross receipts received by him during such tax year.

(e) Every person who ceases to carry on a business during any tax year after having paid the Business Privilege Tax for the entire year shall, upon making a proper application to the Tax Collector, be entitled to receive a refund of the prorata amount of the tax paid based upon the period of time he was not in business during the license year. In the event that a person who discontinues business during any tax year does so before payment of his tax becomes due for such tax year, he shall be permitted to apportion his tax for such tax year and shall pay an amount to be computed by multiplying his gross receipts for the preceding full calendar year by a fraction whose numerator shall be the number of months such person was in business during the tax year and whose denominator shall be twelve (12).

Section 5. Returns and Registration -

(a) Every person subject to the tax imposed by this Ordinance shall forthwith register with the Tax Collector and set forth his name, address, business address and the nature of the business activity in which he is engaged.

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

(c) Every person subject to the tax imposed by this Ordinance who has commenced his business at least one (1) full year prior to the beginning of any tax year shall, on or before the fifteenth (15th) day of April following and annually thereafter, 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 the annual gross volume of business transacted by him during the preceding year and the amount of the tax due.

(d) 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 tax year shall, on or before the fifteenth (15th) day of April following, file with the Tax Collector a return setting forth his name, his residence, his business, business address, and such other information as may be necessary in arriving at the actual volume of business transacted by him during the period of operation prior to January 1 of that tax year, and the amount of the tax due.

(e) Every person subject to the tax imposed by this Ordinance who commences business subsequent to the beginning of any tax year for such tax 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, business address, and such other information as may be necessary in arriving at the actual volume of business transacted by him during his first month of business and the amount of the tax due.

(f) Every person subject to the payment of the tax imposed by this Ordinance who engages in a business temporary, seasonal or itinerant by its nature shall, prior to the commencement of business within the Township, procure and file an application with the Tax Collector setting forth his name, his address, the nature of his business, and the location in which he will conduct business within the Township, and pay to the Tax

Collector upon filing said application a fee of Five (\$5.00) Dollars to be applied to the tax imposed by this Ordinance to the business he conducts within the Township. Within seven (7) days from the day he completes said business within the Township, he shall file a return with the Tax Collector with such information as may be necessary in arriving at the actual gross volume of business during the tax period and the amount of tax due. If the amount of tax due is greater than Five (\$5.00) Dollars, he shall make payment of the excess at the time of filing the return as required by Section 6 of this Ordinance; if the amount of tax due is less than Five (\$5.00) Dollars, he shall request a refund of the difference at the time of filing the return. Failure to apply in advance to the Tax Collector and pay the Five (\$5.00) Dollar fee shall make a person liable for the same penalties imposed by Section 9 of this Ordinance for failure to file a return.

Section 6. Payment at Time of Filing Return - The person making the return shall at the time of filing the return pay the amount of tax shown as due thereon to the Tax Collector.

Section 7. 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. 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 such receipts.

(b) The Tax Collector is hereby charged with the administration and enforcement of the provisions of this Ordinance. The Commissioners may, by resolution, adopt 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, and to make refunds where necessary.

(c) The Tax Collector is hereby authorized to compel the production of books, papers and records, and the attendance of all persons before him whether as parties or witnesses whom he believes to have knowledge of such receipts.

(d) The 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 tax-

payer 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.

Section 8. Suit on Collection; Penalty -

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

(b) If for any reason the tax is not paid when due in each year, interest at the rate of six (6%) percent per annum on the amount of said tax, and an additional penalty of one-half (½%) percent 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 the interest and penalties herein imposed.

Section 9. 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 shall, upon summary conviction before any Justice of the Peace, be sentenced to pay a fine of not more than Three Hundred (\$300.00) Dollars or not more than thirty (30) days' imprisonment, or both, for each offense.

Section 10. Saving and Severability Clauses -

(a) Nothing contained in this Ordinance 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 the validity of the taxes so imposed upon other persons as herein provided.

(c) If a final decision of a Court of competent juris-

diction holds any provision of this Ordinance, or the application of any provision to any circumstances, to be illegal or unconstitutional, the other provisions of this Ordinance, or the application of such provision to other circumstances, shall remain in full force and effect. The intention of the Township is that the provisions of this Ordinance shall be severable and that this Ordinance would have been adopted if any such illegal or unconstitutional provisions had not been included.

Section 11. Effective Date - The provisions of this Ordinance shall become effective immediately and the Ordinance shall remain in effect thereafter from year to year.

ENACTED AND ORDAINED this 9th day of December, 1986.

Attest:

YORK TOWNSHIP BOARD OF COMMISSIONERS

  
Secretary

BY   
Vice President

(SEAL)