

CONEWAGO TOWNSHIP  
YORK COUNTY, PENNSYLVANIA  
BILL NO. 86-7  
ORDINANCE NO. 193

INTRODUCED:

AN ORDINANCE OF CONEWAGO TOWNSHIP, YORK COUNTY, PENNSYLVANIA TO PROVIDE REVENUE FOR GENERAL TOWNSHIP PURPOSES BY IMPOSING A MERCANTILE LICENSING TAX UPON PERSONS AS DEFINED IN THIS ORDINANCE AND IMPOSING A BUSINESS PRIVILEGE TAX UPON THE ANNUAL GROSS RECEIPTS OF PERSONS AS DEFINED IN THIS ORDINANCE, ENGAGING IN CERTAIN OCCUPATIONS AND BUSINESSES WITHIN CONEWAGO TOWNSHIP; PROVIDING FOR THE COMPUTATION, LEVY AND COLLECTION OF SAID TAXES; IMPOSING DUTIES AND CONFERRING POWERS UPON THE TAX COLLECTOR OF CONEWAGO TOWNSHIP; IMPOSING PENALTIES FOR THE VIOLATION THEREOF; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

BE IT ORDAINED and enacted by the Board of Supervisors of Conewago Township, York County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

SECTION 1: Title. This Ordinance shall be known and may be cited as the "Mercantile Licensing and Business Privilege Tax".

SECTION 2: Definitions. As used in this Ordinance, unless the context indicates a clearly different meaning, the following words and phrases shall have the meanings set forth below:

(a) "Township" - Conewago Township.

(b) "Person" - any natural person, partnership, unincorporated association or corporation, non-profit or otherwise. Whenever used in any provisions prescribing a fine or penalty, the word "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" - carrying on or exercising whether for gain or profit or otherwise within Conewago Township any trade, business (including but not limited to financial business as hereinafter defined), profession, vocation, service,

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construction, communication or commercial activity or making sales to persons or rendering services from or attributable to a Conewago Township office or place of business.

The word "Business" shall not include the following: 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) "Wholesale Dealer" or "Wholesale Vendor" - any person who sells to dealers in, or vendors of, goods, wares and merchandise and not no other persons.

(e) "Retail Dealer" or "Retail Vendor" - any person who is a dealer in or vendor of goods, wares and merchandise who is not a wholesale dealer or vendor.

(f) "Financial Business" - 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.

(g) "Tax Year" - the twelve month period from March 1st to February 28th.

(h) "License Year" - the twelve month period from March 1st to February 28th.

(i) "Gross Receipts" - cash, credit transactions, property of any kind or nature, received in or allocable or attributable to Conewago Township from any business or by reason of any sale made, including resales of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods wares or merchandise, or services rendered, or commercial or business transaction had within Conewago Township without deduction therefrom on account of the cost of property sold, materials, uses, labor, service or other cost, interest or discount paid, or any other expense.

"Gross Receipts" shall exclude:

1. The amount of any allowance made for goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares and merchandise in the usual and ordinary course of his business.

2. In the case of a financial business, the cost of securities and other property sold, exchanged, paid at

maturity or redeemed, and monies or credits received in repayment of advances, credits and loans, but not to exceed the principal amount of such advances, credits and loans, and shall also exclude deposits.

3. In the case of a broker, on commissions paid by him to another broker on account of a purchase or sales contract initiated, executed or cleared in conjunction with such other broker.

4. 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 goods, wares, or merchandise, as long as said dealers are not the parent or subsidiary organization of the vendor or have no other affiliation or cooperative arrangements with the vendor.

5. Receipts or that portion thereof attributable to interstate or foreign commerce or to an office or place of business regularly maintained by the taxpayer, outside the limits of Conewago Township, and not for the purpose of evading payment of this tax and those receipts which Conewago Township is prohibited from taxing by law. Such receipts shall be segregated as set forth in Section i(c) of this Ordinance.

(j) "Gross Volume of Business" - includes both cash and credit transactions.

(k) "Tax Collector" - the Tax Collector of Conewago Township, as designated by the Board.

(l) "Temporary, Seasonal or Itinerant Business" - any business that is conducted at one location for less than sixty (60) consecutive days.

SECTION 3: Levy and Collection of Taxes. For the license year and/or tax year, Conewago Township hereby imposes annual Mercantile License and Business Privilege Taxes in the manner and at the rates hereinafter set forth.

SECTION 4:

(a) Licenses. For the license year beginning March 1st and for each license year thereafter, every person desiring to continue to engage in, or hereafter to begin to engage in, the business or wholesale or retail vendor or dealer in goods, wares and merchandise and any person conducting a restaurant or other place where food, drink or refreshments are sold, whether or not the same be incidental to some other business or occupation in

Conewago Township, shall on or before the 15th day of April and on or before the 15th day of April for each license year thereafter, or prior to commencing business during such license year, procure a mercantile license for his place of business or, if more than one, for each of his places of business in the township, from the Tax Collector as required by law. Such license shall be conspicuously posted at the place of business or each of the places of business of every person at all times.

(b) Registration Fee. For each license year, a registration fee shall be required and paid to the Township Tax Officer. The amount of said fee shall be as designated by the Board of Supervisors by Resolution.

SECTION 5: Imposition and Rate of Taxes.

(a) Business Privilege Tax. Beginning with the tax year 1987 and annually thereafter, every person engaging in any business, trade, occupation or profession, in Conewago Township shall pay an annual Business Privilege Tax at the rate of one (1) mill on each dollar of volume of the gross annual receipts thereof derived from all services rendered to clients, patients and customers.

(b) Mercantile License Tax. Every person engaged in and of the following occupations or businesses in the township shall pay an annual mercantile license tax for the license year beginning March 1st and for each license year thereafter beginning on the first day of March at the rate set forth:

(1) Wholesale vendors or dealers in goods, wares and merchandise, at the rate of one (1) mill on each dollar of the volume of the annual gross business transacted by him.

(2) Retail vendors or dealers in goods, wares and merchandise and all persons engaged in conducting restaurants or other places where food, drink or refreshments are sold, whether or not the same be incidental to some other business or occupation, at the rate of one and one-half (1-1/2) mill on each dollar of the volume of the annual gross business transacted by him.

(3) Wholesale and retail vendors or dealers in goods, wares and merchandise, at the rate of one (1) mill on each dollar of the volume of the annual gross wholesale business transacted by him and one and one-half (1-1/2) mill on each dollar of the volume of the annual gross retail business transacted by him.

(4) The tax imposed by this section shall not apply to the dollar volume of annual business covering the resale of goods, wares or merchandise taken by a dealer as a trade-in or part payment for other goods, wares and merchandise except to the extent that the resale price exceeds the trade-in allowance.

SECTION 6: Computation of Gross Receipts/Volume of Business.

(a) Gross Receipts.

(1) Every person subject to the payment of the Business Privilege Tax hereby imposed who has commenced his business at least fourteen (14) full months 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.

(2) Every person subject to the payment of the Business Privilege Tax hereby imposed who has commenced his business less than fourteen (14) full months 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 Conewago Township during the first month in engaged in such business activities multiplied by twelve.

(3) Where a receipt in its entirety cannot be subjected to the Business Privilege 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 Conewago 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 millage 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 Conewago 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.

(4) Every person subject to the payment of the Business Privilege 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.

(5) Every person who ceases to carry on a business during any tax year having paid the Business Privilege Tax for

the entire year shall, upon making proper application to the Tax Collector, be entitled to receive a refund of the pro rata 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.

(b) Volume of Business.

(1) Every person subject to the payment of the Mercantile License Tax hereby imposed who has commenced his business at least fourteen (14) full months prior to the beginning of the license year shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the preceding calendar year.

(2) Every person subject to the payment of the Mercantile License Tax hereby imposed who has commenced or who commences his business less than fourteen (14) full months prior to the beginning of the license year shall compute his annual gross volume of business for such license year by multiplying by twelve the monthly average of the actual gross amount of business transacted by him during the months in the preceding calendar year he was engaged in business.

(3) Every person subject to the payment of the Mercantile License Tax imposed who commences his business less than one (1) full month prior to the end of the preceding calendar year or prior to the beginning of any license year shall compute his annual gross volume of business for such license year upon the gross volume of business transacted by him during the first month of his engaging in business multiplied by the number of months, or fractions thereof, he engages in business in the present calendar year.

(4) Every person subject to the payment of the Mercantile License Tax hereby imposed who engages in a business temporary, seasonal or itinerant by its nature shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the license year.

(5) The Tax Collector is hereby authorized to accept payment under protest of the amount of the Mercantile Tax claimed by the township in any case where the taxpayer disputes the vali-

dity 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.

SECTION 7: 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 to the correctness thereof.

(c) Every person subject to the tax imposed by this Ordinance who has commenced his business at least fourteen (14) full months prior to the beginning of any tax year and/or license year shall, on or before the fifteenth (15th) day of April following 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 fourteen (14) full months prior to the beginning of the tax year and/or license year shall, on or before the fifteenth (15th) day of April following, file 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 the period of operation prior to January 1st of that tax year, and the amount of 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 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, within seven (7) days from the day he completes such business, file a return with the Tax Collector setting forth his name, his business, his business address and such other information as may be necessary in arriving at the actual gross volume of business during the tax period and the amount of the tax due.

SECTION 8: Payment. At the time of filing the return the person making the same shall pay the amount of tax shown as due thereon to the Tax Collector.

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. 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 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, and to make refunds where necessary. Any person aggrieved by any decision of the Tax Collector shall have the right to appeal to court as in other cases provided.

(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 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.

SECTION 10: 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 (06%) percent per annum, and an additional penalty of one-half (1/2) of one (01%) 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 or collection and the interest and penalties herein imposed.

SECTION 11: Fines 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 of 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 conviction before any district magistrate, be sentenced to pay a fine of not more than Five Hundred (\$500.00) Dollars for each offense and, in default of payment of said fine, be imprisoned for a period not exceeding thirty (30) days for each offense.

SECTION 12: Savings and Severability Clauses.

(a) Nothing contained in this Ordinance shall be construed to empower Conewago 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 Conewago 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 Constitution 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 jurisdiction 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 Conewago Township is that the provisions of this Ordinance shall be severable and that this Ordinance would have been adopted if any illegal or unconstitutional provisions had not been included.

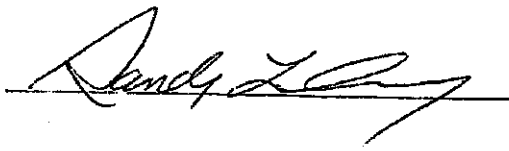
SECTION 13: Repealer. An Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance be and the same is hereby repealed insofar as the same affects this Ordinance.

SECTION 14: Authority. This Ordinance is enacted under authority vested in Second Class Townships of the Commonwealth of Pennsylvania by "The Local Tax Enabling Act", Act of December 31, 1965, P.L. 1257, 53 P.S. 6901, as amended.

SECTION 15: Effective Date. The provisions of this Ordinance shall become effective January 5, 1987.

ENACTED AND ORDAINED, this 31<sup>st</sup> day of December, 1986.

Attest:

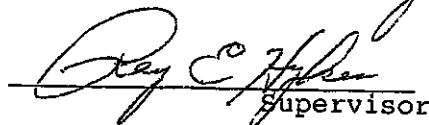


CONEWAGO TOWNSHIP BOARD OF SUPERVISORS

By:

  
Chairman

  
Vice Chairman

  
Supervisor