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**Part 4****Mercantile License Tax****§24-401. Definitions.**

*Person* - any individual, partnership, limited partnership, association or corporation. Whenever used in any Section prescribing and imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

*Wholesale dealer or wholesale vendor* - any person who sells to dealers in, or vendors of, goods, wares, and merchandise and to no other persons.

*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.

*Person, wholesale dealer, wholesale vendor, retail dealer, and retail vendor* - include nonprofit corporations organized for religious, charitable or educational purposes, and association organized for such purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania, or any person vending or disposing of articles of his own growth, production or manufacture for shipment or delivery from the place of growth, production or manufacture thereof.

*License year* - the 12-month period beginning the 1<sup>st</sup> day of February in each and every year.

*Gross volume of business* - shall include both cash and credit transactions.

*Tax collector* - the Tax Collector of Dover Township.

*Temporary, seasonal or itinerant business* - any business that is conducted at one location for less than 60 consecutive days.

(Ord. 91-1, 9/9/1991, §11.61)

**§24-402. Levy and Collection of Tax.**

For the license year, Dover Township hereby imposes an annual mercantile license tax in the manner and in the rates hereinafter set forth.

(Ord. 91-1, 9/9/1991, §11.62)

**§24-403. Licenses.**

For the license year beginning February 1, and for each license year thereafter, every person desiring to continue to engage in, or hereafter to begin to engage in the business of 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 Dover Township, shall on or before the 15<sup>th</sup> day of February, and on or before the 15<sup>th</sup> day of February 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.

(*Ord. 91-1, 9/9/1991, §11.63*)

#### **§24-404. Imposition and Rate of Tax.**

Every person engaged in any of the following occupations or businesses in the Township shall pay an annual mercantile tax for the license year beginning February 1, 1984, and for each license year thereafter beginning on the 1<sup>st</sup> day of February, at the rate set forth:

A. Wholesale vendors or dealers in goods, wares and merchandise, at the rate of  $\frac{1}{2}$  of a mill on each dollar of the volume of the annual gross business transacted by him.

B. Retail vendors, or dealers in goods, wares and merchandise, and all persons engaged in conducting restaurants or other places where food, drink, or refreshment are sold, whether or not the same be incidental to some other business or occupation, at the rate of  $1\frac{1}{2}$  mills on each dollar of the volume of the annual gross business transacted by him.

C. Wholesale and retail vendors or dealers in goods, wares and merchandise, at the rate of  $\frac{1}{2}$  of a mill on each dollar of the volume of the annual gross wholesale business transacted by him, and  $1\frac{1}{2}$  mills on each dollar of the volume of the annual gross retail business transacted by him.

D. 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.

(*Ord. 91-1, 9/9/1991, §11.64*)

#### **§24-405. Computation of Volume of Business.**

1. Every person subject to the payment of the tax hereby imposed who has commenced his business at least 13 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 tax hereby imposed who has commenced or who commences his business less than 13 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 tax hereby imposed who commences his business less than 1 full month prior to the end of the preceding calendar year or prior to the beginning of any license years 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 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 mercantile tax claimed by the Township in any case where the taxpayer disputes the validity 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.

(*Ord. 91-1, 9/9/1991, §11.65*)

#### **§24-406. Returns.**

1. Every return shall be made upon a form furnished by the Tax Collector. Every person making a return shall certify the correctness thereof by affidavit.

2. Every person subject to the tax imposed by this Part who commenced his business at least 13 full months prior to the beginning of any license year shall on or before the 15<sup>th</sup> day of April, filed with the Tax Collector a return setting forth his name, his business and business address, and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, and the amount of the tax due. [*Ord. 94-7*]

3. Every person subject to the tax imposed by this Part who has commenced his business less than 13 full months prior to the beginning of any license year shall on or before the 15<sup>th</sup> day of March, 1984, 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 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 and the amount of tax due.

4. Every person subject to the tax imposed by this Part who commences business less than 1 full month prior to the end of the preceding calendar year or prior to the beginning of any license year shall within 60 days from the date of commencing such business file a return with the Tax Collector setting forth his name, his business and business address, and such information as may be necessary in arriving at the actual gross amount of business transacted by him during his first month of business and the amount of the tax due.

5. Every person subject to the payment of the tax imposed by this Part who engages in a business temporary, seasonal or itinerant by its nature, shall within 7 days from the day he completes such business file a return with the Tax Collector setting forth his name, his business and business address, and such information as may be necessary in arriving at the actual gross amount of business transacted by him during such period and the amount of tax due.

(*Ord. 91-1, 9/9/1991, §11.66; as amended by Ord. 94-7, 12/12/1994*)

#### **§24-407. 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.

(Ord. 91-1, 9/9/1991, §11.67)

**§24-408. Powers and Duties of Tax Collector.**

1. It shall be the duty of the Tax Collector to collect and receive the taxes, fines and penalties imposed by this Part. 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 each receipt.

2. The Tax Collector is hereby charged with the administration and enforcement of the provisions of this Part, 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 Part, 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. The Tax Collector shall have the right to appeal to a court or courts of competent jurisdiction as in other cases provided.

3. 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 the Tax Collector the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

(Ord. 91-1, 9/9/1991, §11.68)

**§24-409. Confidential Nature of Returns.**

Any information gained by the Tax Collector, or any other officer, official, agent or employee of the Township as a result of any returns, investigations, hearings or verifications required or authorized by this Part shall be confidential except in accordance with proper judicial order or as otherwise provided by law, and divulgence of any information so gained is hereby declared to be a violation of this Part, which may be punishable by dismissal from office employment.

(Ord. 91-1, 9/9/1991, §11.69)

**§24-410. Suit on Collection: Penalty.**

1. The Tax Collector may sue for the recovery of taxes due and unpaid under this Part.

2. If for any reason the tax is not paid when due in each year, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of 1% per annum 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 interest and penalties herein imposed.

(Ord. 91-1, 9/9/1991, §11.70)

**§24-411. 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 Part, and whoever fails or refuses to keep his license conspicuously posted at his place of business as herein required, upon conviction thereof, shall be subject to a criminal fine not to exceed \$1,000 per violation plus costs, to a term of imprisonment to the extent allowed by law for the punishment of summary offenses, or to a term of imprisonment for the failure to pay a fine pursuant to the Pennsylvania Rules of Criminal Procedure. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Code or other ordinance which is found to have been violated. (*Ord. 91-1, 9/9/1991, §11.71; as amended by Ord. 2005-08, 10/24/2005*)

**§24-412. Savings and Severability Clauses.**

1. Nothing contained in this Part 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.

2. If the tax, or any portion thereof, imposed upon any person under the provisions of this Part 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.

3. The provisions of this Part are severable, and, if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the Court shall not affect or impair any of the remaining provisions of this Part. It is hereby declared to be the intention of the Supervisors of Dover Township that this Part would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

(*Ord. 91-1, 9/9/1991, §11.72*)

**Part 5****Business Privilege Tax****§24-501. Definitions.**

*Person* - any individual, partnership, limited partnership, association or corporation, but shall not include a wage earner, a non-profit corporation organized for religious, charitable or educational purposes, an association for such purposes, any agency of the Government of the United States or of the Commonwealth of Pennsylvania or any public utility.

*Service* - any act or instance of helping or benefitting another for a consideration.

*Privilege year* - the calendar year.

*Gross receipts* - shall include both cash and credit transactions, and shall include payment received for gross charges made by the taxpayer for services rendered, including both service, labor and any materials entering into or becoming component parts of the services performed.

*Tax collector* - shall include the Tax Collector of Dover Township.

*Temporary, seasonal or itinerant business* - any business that is conducted at one location for less than 60 consecutive days.

(Ord. 91-1, 9/9/1991, §11.11)

**§24-502. Authority to Levy and Collect Tax.**

Dover Township hereby imposes a business privilege tax for the privilege year in the manner and at the rate hereinafter set forth. Except as hereinafter provided, such tax shall be in addition to any other tax levied and collected under any existing ordinance. This Part is enacted under the authority of Act 511, approved December 31, 1965.

(Ord. 91-1, 9/9/1991, §11.12)

**§24-503. Imposition and Rate of Tax.**

1. Every person engaging in a business, trade, occupation or profession, hereinafter listed in Dover Township and maintaining a place, office, or establishment within Dover Township for the conduct of said business, trade, occupation or profession, shall pay a business privilege tax at the rate of 1½ mills on his gross receipts derived from all services rendered to clients, patients and customers.

2. Every person engaging in a business, trade, occupation or profession, hereinafter listed in Dover Township and maintaining no place, office or establishment within Dover Township for the conduct of said business, trade, occupation or profession shall pay a business privilege tax at the rate of 1½ mills on his gross receipts derived from all services rendered within Dover Township to clients, patients and customers.

A. Printers; lithographers; processors; laundry operators; laundrette operators; warehousemen; upholsterers; doctors; lawyers; dentists; engineers; architects, chemists; chiropractors; chiropodists; certified public accountant; public accountant; real estate brokers; cleaning, pressing, and dyeing establishment

operators; shoe repair shop operators; tailors; dressmakers; electrical; plastering; bricklaying; carpentry; hearing; ventilating; plumbing and painting contractors; contractors engaged in the classes of heavy building or other construction of any kind or in the alteration, maintenance or repair thereof; truckers; housing contractors; repairer of electrical, electronic or automotive machinery or equipment of other machinery and equipment and other wares and merchandise; and all other businesses, trades, occupations and professions in which there is offered any service or services to the general public or a limited number thereof.

(*Ord. 91-1, 9/9/1991, §11.13*)

**§24-504. Determination of Gross Receipts.**

1. Every person subject to the payment of the tax hereby imposed, who has commenced his business at least 1 full year prior to the beginning of the license year, shall determine his gross receipts for the license year from his actual gross receipts for the preceding calendar year.

2. Every person subject to the payment of the tax hereby imposed, who has commenced his business less than 1 full year prior to the beginning of the license year, shall determine his gross receipts for the license year by multiplying his actual gross receipts for the first month he engages in business by 12.

3. Every person subject to the payment of the tax hereby imposed, who commences his business subsequent to the beginning of the license year, shall determine his gross receipts for the license year by multiplying his actual gross receipts for the first month he engages in business by the number of months, or fractions thereof, he engages in business in the license year.

4. Every person subject to the payment of the tax hereby imposed, who engages in a business temporary, seasonal or itinerant in its nature, shall determine his gross receipts for the license year from his actual gross receipts for the license year.

5. The collector is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Township in any case where the taxpayer disputes the validity or amount of the Township's claim for tax. 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.

(*Ord. 91-1, 9/9/1991, §11.14*)

**§24-505. Registration.**

Any person subject to the tax hereby imposed shall, on or before the 15<sup>th</sup> day of January, 1984, or prior to commencing business in such license year, register with the Tax Collector and, having once registered with the Tax Collector, registration annually thereafter is not required.

(*Ord. 91-1, 9/9/1991, §11.15*)

**§24-506. Returns.**

1. Every return shall be made upon a form furnished by the Tax Collector. Every person making a return shall certify the correctness thereof by affidavit.

2. Every person subject to the tax imposed by this Part who commenced his business at least 1 full year prior to the beginning of any license year shall on or before the 15<sup>th</sup> day of April, file with the Tax Collector a return setting forth his name, his business and business address, and such other information as may be necessary in arriving at his actual gross receipts during the preceding calendar year, and the amount of the tax due. [*Ord. 94-7*]

3. Every person subject to the tax imposed by this Part who has commenced his business less than 1 full year prior to the beginning of any license year shall on or before the 15<sup>th</sup> day of April, 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 his actual gross receipts during the first month of business and the amount of tax due. [*Ord. 94-7*]

4. Every person subject to the tax imposed by this Part who commences business subsequent to the beginning of any license year shall within 40 days from the date of commencing such business file a return with the Tax Collector setting forth his name, his business and business address, and such information as may be necessary in arriving at his actual gross receipts during his 1<sup>st</sup> month of business and the amount of tax due.

5. Every person subject to the payment of the tax imposed by this Part who engages in a business temporary, seasonal or itinerant by its nature, shall within 7 days from the date he completed such business file a return with the Tax Collector setting forth his name, his business and business address, and such information as may be necessary in arriving at his actual gross receipts during such period and the amount of tax due.

(*Ord. 91-1, 9/9/1991, §11.16; as amended by Ord. 94-7, 12/12/1994*)

#### **§24-507. Payment.**

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

(*Ord. 91-1, 9/9/1991, §11.17*)

#### **§24-508. Powers and Duties of Tax Collector.**

1. It shall be the duty of the Tax Collector to collect and receive the taxes, fines and penalties imposed by this Part. 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 each receipt.

2. The Tax Collector is hereby charged with the administration and enforcement of the provisions of this Part, and is hereby powered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, 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. Any person aggrieved by any



decision of the Tax Collector shall have the right to appeal to a court or courts of competent jurisdiction as in other cases provided.

3. 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.

(*Ord. 91-1, 9/9/1991, §11.18*)

#### **§24-509. Confidential Nature of Returns.**

Any information gained by the Tax Collector, or any other officer, official, agent or employee of the Township as a result of any returns, investigations, hearings, or verifications, required or authorized by this Part shall be confidential except in accordance with proper judicial order or as otherwise provided by law, and divulgence of any information so gained is hereby declared to be a violation of this Part, which may be punishable by dismissal from office or employment.

(*Ord. 91-1, 9/9/1991, §11.19*)

#### **§24-510. Suit on Collection/Penalty.**

1. The Tax Collector may sue for the recovery of taxes due and unpaid under this Part.

2. If for any reason the tax is not paid when due in each year, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of 1% per annum 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 interest and penalties herein imposed.

(*Ord. 91-1, 9/9/1991, §11.20*)

#### **§24-511. Fines and Penalties.**

Whoever makes any false or untrue statement of 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 Part, upon conviction thereof, shall be subject to a criminal fine not to exceed \$1,000 per violation plus costs, to a term of imprisonment to the extent allowed by law for the punishment of summary offenses, or to a term of imprisonment for the failure to pay a fine pursuant to the Pennsylvania Rules of Criminal Procedure. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Code or other ordinance which is found to have been violated.

(*Ord. 91-1, 9/9/1991, §11.21; as amended by Ord. 2005-08, 10/24/2005*)

#### **§24-512. Savings and Severability.**

1. Nothing contained in this Part, 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.

2. If the tax, or any portion thereof, imposed upon any person under the provisions of this Part 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.

3. The provisions of this Part are severable, and, if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the Court shall not affect or impair any of the remaining provisions of this Part. It is hereby declared to be the intention of the Supervisors of Dover Township that this Part would have been adopted if such illegal, invalid or unconstitutional provision had not been included herein.

*(Ord. 91-1, 9/9/1991, §11.22)*