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ARTICLE IV. Business Privilege Tax

[Adopted 11-24-1987 by Ord. No. 1987-14; amended in its entirety 1-9-2003 by Ord. No. 2003-02 (Ch. 24, Part 1, of the 2003 Code)]

§ 300-38. Short title.

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

§ 300-39. Definitions.

The following words and phrases when used in this article shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

BUSINESS

Carrying on or exercising, whether for gain or profit or otherwise, within the Township of Springettsbury any trade, business, including, but not limited to, financial services business as hereinafter defined, profession, vocation, service, leasing, construction, communication or commercial activity or making sales to persons or rendered services from or attributable to a Springettsbury Township office or place of business. "Business" shall not include the following:

- A. Any business which is subject to the Township of Springettsbury mercantile tax on its entire gross receipts.
- B. The business of any political subdivision.
- C. Any employment for a wage or salary.
- D. Business upon which the power to levy a tax is withheld by law.

FINANCIAL SERVICES 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.

GROSS RECEIPTS

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:

- A. 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.
- B. Refunds, credits or allowances given by a taxpayer to a purchaser on account of defects in goods, ware or merchandise, sold or on account of goods, wares or merchandise returned.
- C. 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.

D. In case of a broker, commissions paid to another broker on account of purchases in conjunction with such broker.

E. 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.

F. 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.

G. Taxes collected as agent for the United States, the Commonwealth of Pennsylvania and/or Springettsbury Township.

H. 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.

I. 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, producers and farms 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.

PERSON

Any individual, partnership, limited partnership, association or corporation, nonprofit 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.

TAX COLLECTOR

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

TAX YEAR

The twelve-month period beginning the first day of January, in each and every year.

TEMPORARY, SEASONAL or ITINERANT BUSINESS

Any business that is conducted at one location for less than 60 consecutive days.

TOWNSHIP

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

§ 300-40. Imposition of rate of tax.

Every person engaging in any business in the Township shall pay an annual tax at the rate of 1 1/2 mills on each dollar of volume of the gross annual receipts thereof.

§ 300-41. 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 full year prior to the beginning of any tax year shall compute his annual gross receipt 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 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 12.

C. Where a receipt in its entirety cannot be subjected to the tax imposed by this article by reason of the provisions of the Constitution of the United States or any other provision of law, including the exemptions within this article, 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 land 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 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 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 12.

§ 300-42. Returns and registration.

A. Every person subject to the tax imposed by this article 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 article who has commenced his business at least one full year prior to the beginning of any tax year shall, on or before the April 15, 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 article who has commenced his business less than one full year prior to the beginning of any tax year shall, on or before April 15, 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 article who commences business subsequent to the beginning of any tax year for such tax 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, 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 article 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 \$5 to be applied to the tax imposed by this article to the business he conducts within the Township. Within seven 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 \$5, he shall make payment of the excess at the time of filing the return as required by § 300-43 of this article, if the amount of the tax due is less than \$5, 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 \$5 fee shall make a person liable for the same penalties imposed by § 300-46 of this article for failure to file a return.

§ 300-43. 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.

§ 300-44. 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 article. 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 article. The Supervisors may, by resolution, adopt rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the reexamination 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 or 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.

§ 300-45. Suit on collection; interest and penalty.

A. The Tax Collector may sue for recovery of taxes due and unpaid under this article.

B. 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 1/2 of 1% 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.

§ 300-46. Enforcement notice and remedies.

A. Enforcement notice. 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. Enforcement remedies.

(1) 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 judgement 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.

(2) 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.

(3) 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 subsection.

(4) District justices shall have initial jurisdiction over proceedings brought under this section.

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