

ORDINANCE No.37

AN ORDINANCE IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON EACH INDIVIDUAL FOR THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE TOWNSHIP OF SOUTH HUNTINGDON, WESTMORELAND COUNTY, PENNSYLVANIA, AT THE FLAT RATE OF TEN (\$10.00) DOLLARS PER YEAR: PROVIDING FOR ITS COLLECTION: IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING THE TAX FROM EVERY INDIVIDUAL IN THEIR EMPLOY SUBJECT TO SAID TAX AND REMITTING AND PAYING OVER THE SAME TO THE COLLECTOR, AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, it is necessary to provide funds for the operation of South Huntingdon Township in the judgment of the Board of Supervisors of said Township; and

WHEREAS, it is estimated that the amount of revenue to be derived from the occupation privilege tax herein set forth is \$2,000.00 for the first year of the imposition thereof.

NOW, THEREFORE, BE IT RESOLVED, that

Section 1. Definitions.

The following words and phrases, when used in this ORDINANCE, shall have the meanings ascribed 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 South Huntingdon Township.

(b) "Occupation" shall mean any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within South Huntingdon Township, 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, wages, commission, or other compensation basis, including a self-employed person.

(d). "Tax" shall mean the Occupation Privilege Tax in the amount of Ten (\$10.00) Dollars levied by this Ordinance.

(e). "Employee" shall mean any individual engaged in an occupation as defined in "b" above.

(f) "Collector" shall mean the person, persons, firm or agent appointed by South Huntingdon Township to receive, demand and collect the tax imposed by this Ordinance.

(g) "Fiscal year" shall mean the twelve (12) month period beginning January 1st and ending December 31st.

(h) "District" shall mean the territory encompassed by or within South Huntingdon Township.

(i) "He", "His", or "Him" shall mean and indicate the singular and plural number as well as male, female and neuter gender.

Section 2. The Township hereby levies and imposes an Occupation Privilege Tax on the privilege of engaging in an occupation by individuals within said Township or District. The tax is effective July 1st, 1969. This tax is in addition to all other

taxes or any kind or nature heretofore levied by the Township.

Section 3. Amount of tax.

BEGINNING on the 1st day of July, 1969, each individual who exercises the privilege or engaging in an occupation within the Township or District, shall be subject to an Occupation Privilege Tax in the amount of Ten (\$10.00) Dollars, per annum, said tax to be paid by the individual so engaged.

Section 4. Duty of employers.

Each employer within the Township or District, and every employer situated outside the Township or District, who engages in business within the District, is hereby charged with the duty of collecting the tax from each of his employees within the Township or District, and making a return and payment thereof to the Collector. Each employer is hereby authorized and directed to deduct the tax from each individual in his employ.

Section 5. Returns.

Each employer shall prepare and file a return showing the computation of the tax on forms to be supplied to him by the collector.

Section 6. Dates for determining Tax Liability and payment.

Each employer shall use his employment records from the first day of July 1969 to the 15th day of July, 1969, for determining the number of employees from whom said tax shall be deducted and paid over to the collector on or before July 31st, 1969. Supplemental reports shall be made by each employer on October 30, 1969, January 31st, 1970, April 30, 1970 and July 31st, 1970 and so on, for employees as reflected on his employment records for the three (3) months' period preceding the month in which the report is due, and in the case of the report due October 30th, for the last 16 days of and in July. Payments shall be made with the submission of each supplemental report.

Section 7. Individuals engaged in more than one occupation.

Each individual who shall have more than one occupation within the Township or District, shall be subject to the payment of this tax on his principal occupation and his principal employer shall deduct this tax and deliver to him evidence of deductions on a form to be furnished to the employer by the collector, which form shall be evidence of deduction having been made, and when presented to any other employer shall be authority for such employer to NOT DEDUCT this tax from the employee's wages, but to include such employee on his return by setting forth his name, address and the name and account number of the employer who deducted this tax.

Section 8. Self-Employed Individuals.

All self-employed individuals who perform services of any type or kind, engage in any occupation or profession within the Township or District, shall be required to comply with this Ordinance, and pay the tax to the collector on July 30, 1969, or as soon thereafter as he engages in an Occupation.

Section 9. Employers and Self-Employed Individuals residing outside the Township or District.

All employers and self-employed individuals residing or having their place of business outside of the Township or District, but who perform services of any type or kind, or engage in any occupation or profession within the Township or District, 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 or District. Further, any individual engaged in an occupation within the Township or District 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 or District shall have the option of proceeding against either the employer or employee, for the collection of this tax as hereinafter provided.

Section 10. Administration of Tax.

(a). The Collector shall be appointed by the Township or District, and shall serve for such time and for such compensation as shall be from time to time determined by the Township or District.

(b). The Collector is hereby charged with the administration and enforcement of this Ordinance, and is hereby charged and empowered to prescribe, adopt, promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Ordinance, including provisions for the examination of the payroll records of any employer subject to this Ordinance; the examination and correction of any return made in compliance with this Ordinance, and any payment alleged or found to be incorrect, or as to which overpayment is claimed or found to have occurred.

(c). The Collector 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 Collector, the means, facilities, and opportunity for such examination.

(d). It shall be the duty of the Collector to accept and receive payments of the tax and to keep a record thereof showing the amount received by him from the said employer or self-employed person together with the date the tax was received.

(e). The Collector shall in addition to the powers and duties expressly conferred upon him in this Ordinance, have all of the powers, duties and responsibilities granted to or available to him including the right to compel an employer to withhold delinquent occupational privilege taxes of a wife of an employee, as granted under Act 511 of 1965. All employers and employees shall be subject to all powers, duties and provisions as set out in said act even if not herein specifically set out.

Section 11. Suits for Collection.

(a). In the event that the tax remains due or unpaid thirty (30) days after the due dates above set forth, the Collector may institute suit for the recovery of such tax due and unpaid under this Ordinance, together with interest and penalties applicable thereto.

(b). If for any reason the tax is not paid when due, interest at the rate of six per cent (6%) per annum on the amount of said tax shall be also payable, calculated beginning with the due date of said tax, and a penalty of five per cent (5%) shall also be added to the flat rate of said tax, the individual liable therefor, shall, in addition to the tax, interest, and penalties, be responsible and liable for the costs of collection.

Section 12. Fine and Penalty.

Whoever makes any false or untrue statement on any return required by this Ordinance, or who refuses inspection of his books, 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 Alderman or Justice of the Peace of Westmoreland County, Pa. be sentenced to pay a fine of not more than Three Hundred (\$300.00) Dollars for each offense and in default of payment of said fine and costs be imprisoned in Westmoreland County Jail for a period of 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 refuses to file a return required by this Ordinance.

Section 13. 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 intent of the Township or District, and its Supervisors, that this resolution would have been adopted if such illegal, invalid or unconstitutional provision had not been included herein.

Section 14. Savings Clause.

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

Section 15. Effective Date.

This Ordinance shall take effect July 1, 1969, and is adopted under the authority of the Local Tax Enabling Act.

ORDAINED AND ENACTED this 5th day of April, 1969.

TOWNSHIP OF SOUTH HUNTINGDON.

Lawrence J. Nemecek.

President of Board of Supervisors.

ATTEST:

Frank Kostello.

Township Secretary.