

ORDINANCE NO. 41

ORDINANCE IMPOSING A FLAT-RATE OCCUPATION TAX FOR GENERAL REVENUE PURPOSES ON OCCUPATIONS ENGAGED IN BY INDIVIDUALS WITHIN THE TOWNSHIP OF SOUTH HUNTINGDON, WESTMORELAND COUNTY, PENNSYLVANIA, AT THE FLAT RATE OF TEN (\$10.00) AND 00/100 DOLLARS PER CALENDAR YEAR, PROVIDING FOR ITS COLLECTION, IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING SAID TAX FROM EVERY INDIVIDUAL IN THEIR EMPLOY SUBJECT TO SAID TAX AND REMITTING AND PAYING OVER THE SAME TO THE COLLECTORS, AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF

WHEREAS, it is necessary to provide funds for the operation of the Township of South Huntingdon, Westmoreland County, Pennsylvania; and

WHEREAS, an occupation tax will help to relieve the burden of taxation on real estate; and

WHEREAS, it is estimated that the amount of revenue to be derived from a tax on occupations here set forth in the first year is Seven Thousand Five Hundred (\$7,500.00) and 00/100 Dollars.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Board of Supervisors of South Huntingdon Township, Westmoreland County, Pennsylvania, and it is hereby ordained and enacted as follows:

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, business, profession or undertaking within the 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 the Township for which compensation is charged or received, whether by means of salary, wages, commissions, tips 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, wage, commission, or other compensation basis, including a self-employed person.
- d. "Tax" shall mean the occupation tax in the amount levied by this ordinance.
- e. "Employee" shall mean any individual engaged in an occupation as defined above.
- f. "Collector" shall mean the person, persons, firm, or agent appointed by the Township to receive, demand and collect the tax imposed by this ordinance.
- g. "He", "his" or "him" shall mean and indicate the singular and plural number as well as male, female, and neuter gender.

H. "Township" shall mean the Township of South Huntingdon, Westmoreland County, Pennsylvania.

SECTION 2. Levy and amount.

The Township hereby levies and imposes a tax on each occupation in the Township of Ten (\$10.00) and 00/100 Dollars for the calendar year 1970 and each subsequent calendar year. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township.

SECTION 3. Dates for determining tax liability and payment.

Every individual engaged in an occupation as of the effective date of this ordinance or who thereafter as an individual becomes engaged in an occupation shall within sixty (60) days of engaging in an occupation file such return or forms as required by the Township and pay the tax simultaneously therewith.

SECTION 4. Administration of tax.

a. The collector shall be appointed by the Township and shall serve for such time and for such compensation as shall be from time to time determined by the Township.

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. Such record examination shall be for the sole purpose of determining or verifying names of individuals engaged in an occupation.

c. The collector is hereby authorized to examine the books and payroll records of any employer in order to verify the employment of any individual. 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 each employer or self-employed person, together with the date the tax was received, and to pay to the Township all amounts received at such times not less than monthly as shall be determined by the Township.

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 occupation taxes of a wife of an employee, as granted under The Local Tax Enabling Act. 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.

f. All forms for reports and collection of the tax shall be prescribed by the Township.

SECTION 5. Suits for collection.

a. In the event that the tax remains due or unpaid thirty (30) days after the due date thereof, 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 (6%) per cent per annum on the amount of said tax shall also be payable, calculated beginning with the due date of said tax, and a penalty of five (5%) per cent shall also be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of the tax, the individual liable therefor shall, in addition to the tax, interest, and penalties, be responsible and liable for the costs of collection.

SECTION 6. Fine and penalty.

Any individual, employee, or employer or other person whatsoever who 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, be sentenced to pay a fine of not more than Three Hundred (\$300.00) and 00/100 Dollars for each offense and in default of payment of said fine and costs be imprisoned in a county jail for a period 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 7. 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 and the Board of Supervisors that this ordinance would have been adopted if such illegal, invalid, or unconstitutional provision had not been included herein.

SECTION 8. Saving clause.

a. Nothing contained in this ordinance shall be construed to empower the Township to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Township 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 9. Effective date.

This ordinance shall take effect thirty (30) days from the adoption hereof and is adopted under the authority of The Local Tax Enabling Act.

Ordained and Enacted by the Board of Supervisors of the Township of South Huntingdon, Westmoreland County, Pennsylvania, this 25th day of May, 1970.

TOWNSHIP OF SOUTH HUNTINGDON

by: Lawrence J. Nemec
Chairman

(CORPORATE SEAL)

ATTEST:

by: Frank Kostello
Secretary

I certify that I am the secretary of the Township of South Huntingdon, Westmoreland County, Pennsylvania, that the ordinance to which this certification is attached was duly adopted by the Board of Supervisors of the Township of South Huntingdon at a meeting properly called and held on May 25, 1970, and that such ordinance is set out in full in the minutes of such meeting.

Witness my hand and seal this 25th day of May, 1970.

Certified to by Frank Kostello, Secretary.