

ORDINANCE NO. 104

OCCUPATION PRIVILEGE TAX ORDINANCE

An Ordinance of the Township of Pymatuning, Mercer County, Pennsylvania, imposing a tax for general revenue purposes in the amount of five (\$5.00) dollars upon the privilege of engaging in an occupation within the Township of Pymatuning, commencing with the calendar year 1978, to be paid by each individual exercising such privilege; providing for its collection; requiring the filing of returns; 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 Receiver of Taxes; conferring and imposing powers and duties of administration on the Receiver of Taxes; and imposing penalties for the violation of the terms of this Ordinance.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Pymatuning, Mercer County, Pennsylvania, and it is hereby enacted and ordained as follows:

SECTION 1. TITLE. This Ordinance shall be known and may be cited as "Occupation Privilege Tax Ordinance".

SECTION 2. 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 the limits of the Township of Pymatuning who shall earn more than one thousand (\$1,000.00) dollars during the calendar year.

- (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 limits of the Township of Pymatuning for which compensation is charged or received in the form of salary, wage, commission, or fee for services rendered.
- (c) "Employer" shall mean any individual, partnership, association, corporation or other entity employing one or more persons on a salary, wage, commission or other compensation basis. An employer shall include a self-employed person who engages in his employ the services of one or more individuals besides himself.
- (d) "Tax" shall mean the occupation privilege tax in the amount of five (\$5.00) dollars levied by this Ordinance.
- (e) "Receiver of Taxes" shall mean the person designated as such by the Township of Pymatuning for the collection of the tax.
- (f) "Township" shall mean the Township of Pymatuning.
- (g) "Act No. 511" shall mean The Local Tax Enabling Act of 1965 which became effective January 1, 1966.

SECTION 3. LEVY.

For general revenue purposes a tax is hereby levied upon the privilege of engaging in an occupation within the Township of Pymatuning during the calendar year 1978 and each calendar year thereafter. Each individual who exercises such privilege for any length of time shall pay tax in the amount of five (\$5.00) dollars in accordance with the provisions of this Ordinance. This tax is in addition to all other taxes of any kind or nature heretofore or now levied by the Township of Pymatuning.

SECTION 4. DUTY OF EMPLOYERS.

Each employer within the Township of Pymatuning as well as those employers situated outside the Township of Pymatuning but who engage in business within the Township of Pymatuning, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Township of Pymatuning the said tax of five (\$5.00) dollars and making return and payment thereof to the Receiver of Taxes. Further, each employer is hereby authorized to deduct this tax from each employee in his employ, whether said employee is paid by salary, wages or commission, and whether or not part or all of such services are performed within the Township of Pymatuning, subject

only to the priorities of liability of Act No. 511.

SECTION 5. RETURNS.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Receiver of Taxes. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to said employee, the employer shall be responsible for the payment of the tax in full and as though the tax had originally been levied against him.

SECTION 6. DATES FOR DETERMINING TAX LIABILITY AND PAYMENT.

- (a) As to each taxpayer employed for any length of time on or before March 31 in the calendar year 1978 and each subsequent calendar year, each employer shall deduct the tax from the compensation payable to the taxpayer, file a return on a form prescribed by the Receiver of Taxes, and pay the Receiver of Taxes the full amount of all such taxes on or before May 1. Thereafter, as to each taxpayer for whom no prior deduction has been made, who is employed for any length of time in any of the three-month periods ending June 30, September 30 and December 31 of any calendar year, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the Receiver of Taxes, and pay to the Receiver of Taxes the full amount of all taxes deducted for each such three-month period within thirty (30) days of the close of such quarter.
- (b) Any employer who discontinues business or ceases operation before December 31 of any year, shall, within fifteen (15) days after discontinuing business or ceasing operation, file a return hereinabove required and pay the taxes to the Receiver of Taxes.

SECTION 7. INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION.

Each individual who shall have more than one occupation within the Township 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 deduction on a form to be furnished to the employer by the Receiver of Taxes, 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, 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 or engage in any occupation or profession within the Township of Pymatuning shall be required to comply with this Ordinance and pay the taxes to the Receiver of Taxes on or before April 15 of any year or as soon thereafter as he engages in an occupation.

SECTION 9. EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS RESIDING BEYOND THE CORPORATE LIMITS OF THE TOWNSHIP.

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

SECTION 10. ADMINISTRATION OF TAX.

- (a) It shall be the duty of the Receiver of Taxes to accept and receive payments of this 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.
- (b) The Receiver of Taxes is hereby charged with the administration and enforcement of this Ordinance and is hereby charged and empowered to prescribe, adopt and 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 Receiver of Taxes 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 Receiver of Taxes the means, facilities and opportunity for such examination.

SECTION 11. SUITS FOR COLLECTION.

- (a) In the event that any tax under this Ordinance remains due or unpaid after thirty (30) days after due dates above set forth, the Receiver of Taxes may sue for the recovery of the amount of such taxes due or unpaid under this Ordinance together with interest and penalty, or collect said amount due by any other method permitted under Act No. 511.
- (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 payable beginning with the due date of said tax and a penalty of one-half (1/2) of one per cent (1%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefor shall, in addition, be responsible and liable for the cost 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 district justice, be sentenced to pay a fine of not more than one hundred (\$100.00) dollars for each offense, and in default of payment of said fine and costs shall undergo imprisonment in the Mercer County Jail for a period not exceeding thirty (30) days for each offense. An action to enforce the fine and penalty provided for herein 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 legislative intent that this Ordinance would have been adopted if such invalid or unconstitutional provision had not been included herein.

SECTION 14. APPLICATION OF PROVISIONS OF ACT NO. 511.

This Ordinance is adopted under the authority of The Local Tax Enabling Act, being Act No. 511, effective January 1, 1966. All mandatory provisions of this Act are incorporated herein by reference.

SECTION 15.

This Ordinance shall become effective January 1, 1978, and shall continue in effect during each subsequent calendar year without further reenactment.

ENACTED AND ORDAINED this 13TH day of OCTOBER, 1977.

TOWNSHIP OF PYMATUNING

By Charles J. Erdemote

John L. Arthurholt Jr.

Ham H. Urangst

Attest:

Sheida Eckman
Township Secretary

Supervisors