

ORDINANCE NO. 121

AN ORDINANCE IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE LIMITS OF EAST NORRITON TOWNSHIP, AT A FLAT RATE OF TEN (\$10.00) DOLLARS PER 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 OCCUPATIONAL PRIVILEGE TAX RECEIVER; CONFERRING AND IMPOSING POWERS AND DUTIES OF ADMINISTRATION ON THE OCCUPATIONAL PRIVILEGE TAX RECEIVER; AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of East Norriton, pursuant to the authority of the Act of December 31, 1965, (P.L. 1257) and its amendments, known as "The Local Tax Enabling Act", 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. "Township" shall mean the Township of East Norriton, Montgomery County, Pennsylvania.

B. "Individual" shall mean any person, male or female, who attains or is over the age of eighteen (18) years after the effective date of this Ordinance, engaged in any occupation, trade or profession of any nature, type or kind what-so-ever, within the corporate limits of the Township of East Norriton, whether in the employ of another or self-employed during any Township year.

C. "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 corporate limits of the Township of East Norriton for which compensation is charged or received, whether by means of salary, wages, commissions or fees for services rendered.

D. "Employer" shall mean an individual, partnership, association, corporation, governmental body, agency or other entity employing one or more persons on a salary, commission, or other compensation basis, including a self-

employed person.

E. "Tax" shall mean the Occupation Privilege Tax levied by this Ordinance.

F. "Tax Receiver" shall mean the Manager of the Township of East Norriton.

G. "Year" shall mean the fiscal year beginning January 1 and ending December 31 of each calendar year.

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

I. "Administrator" shall mean the Manager of the Township of East Norriton under whose direction this tax shall be enforced.

SECTION 2. Levy

For general revenue purposes, a tax is hereby levied upon the privilege of engaging in an occupation within the corporate limits of the Township during the Year beginning January 1, 1976, and during each Year thereafter. Each individual who exercises such privileges for any length of time during any Year wherein he earns a minimum of \$1,000.00, shall pay a tax in the amount of Ten Dollars (\$10.00) in accordance with the provisions of this Ordinance. This tax is in addition to all other taxes of any kind or nature levied by the Township. It shall be the obligation of each such person so engaged in an occupation to pay or cause to be paid the tax herein imposed by the due date for the quarter in which he earns the annual required minimum of \$1,000.00. The adoption of this Ordinance shall constitute notice and demand for payment of this tax.

SECTION 3. Collection of Tax

A. Payment

Said tax shall be paid to the Tax Receiver of the Township.

B. Delinquency

Hereinafter a penalty of one-half (1/2%) percent per month or fraction thereof of the amount of the tax, together with interest computed at six per cent (6%) per annum until paid shall be added to the tax and collected.

C. Duties of Employer

Each employer within the Township as well as those employers situated outside the Township, but who engage in business within the Township, is hereby charged with the duty of collecting from each of his employees engaged by him and

performing for him within the Township, the said tax of Ten Dollars (\$10.00) per annum and making a return and payment thereof to the Tax Receiver. Further, each employer is hereby authorized to deduct this tax from each employee in his employ after the employee has earned the required minimum of \$1,000.00, whether said employee is paid by salary, wages or commission, and whether or not part or all such services are performed within the Township. The employer will provide the employee with evidence of deduction on a form to be furnished the employer by the Administrator.

D. Returns

Each employer shall prepare and file a quarterly return showing the employee payor and a computation of the tax on forms to be supplied to him by the Administrator. 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 without deducting a commission and as though the tax had originally been levied against him.

E. Dates for Determining Tax Liability and Payment

Each employer shall use his employment records as of the first day of February, 1976 and January 1st of each succeeding year through March 31st of each year, for determining the number of employees from whom said tax shall be deducted and paid over to the Tax Receiver by April 30 of each year. Supplemental reports and the tax due thereon shall be made by each employer as follows: by July 31st of each year covering all employee payments for the period April 1 through June 30; by October 31 of each year covering all employee payments for the period July 1 through September 30; and, by January 31 of each year covering all employee payments for the period October 1 through December 31.

F. 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 Administrator, 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.

G. Self-Employed Individuals

All self-employed individuals who perform services of any type or kind, engage in any occupation or profession

within the Township, shall be required to comply with this Ordinance and pay the tax to the Tax Receiver by April 30 of each year, or as soon thereafter as he earns the annual minimum of \$1,000.00.

H. Employers and Self-Employed Individuals
Residing beyond the Corporate Limits of the Township of
East Norriton.

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

I. Administration of Tax

(1) It shall be the duty of the Tax Receiver 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.

(2) The Administrator 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 over payment is claimed or found to have occurred. Any person aggrieved by any decision of the Administrator shall have the right to appeal to the Court of Common Pleas of Montgomery County as in other cases provided.

(3) The Administrator 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 Administrator the means, facilities and opportunity for such examination.

J. Suits for Collection

(1) In the event that any tax under this Ordinance remains due or unpaid thirty (30) days after the due date above set forth, the Administrator may sue for the recovery of any such tax due or unpaid under this Ordinance together with interest and penalty.

(2) If for any reason the tax is not paid when due, interest at the rate of six per cent (6%) on the amount of said tax calculated beginning with the due date of said tax and a penalty of one-half per cent (1/2%) per month or fraction thereof shall be added to the flat rate of said tax for non-payment thereof. Where suit is brought for the recovery of this tax, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

K. 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, or who shall fail to pay the tax due, shall, upon conviction before any Justice of the Peace, be sentenced to pay a fine of not more than Three Hundred Dollars (\$300.00) for each offense and in default of payment of said fine and costs, be imprisoned in Montgomery County Prison for a period not exceeding ninety (90) 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.

L. 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 illegal, invalid or unconstitutional provision had not been included therein.

M. Saving Clause

(1) 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 Constitution and Laws of the Commonwealth of Pennsylvania.

(2) 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 Constitution or 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.

N. Effective Date

This Ordinance shall become effective on February 1, 1976, and shall remain in effect thereafter for each fiscal year unless repealed or substantially changed.

ORDAINED AND ENACTED this 30th day of December ,
A.D. 1975.

BOARD OF SUPERVISORS OF
EAST NORRITON TOWNSHIP

By:



Attest:

