

20

20

ORDINANCE

Imposing a tax for general revenue purposes on salaries, wages, commissions and other compensation earned during the period beginning January 1, 1967 and ending December 31, 1967, by residents of the Township of Rush, and on salaries, wages, commissions and other compensation earned during said period by non-residents of the Township of Rush for work done or services performed or rendered in the Township of Rush and on the net profits earned during said period from businesses, professions or other activities conducted by residents of the Township of Rush, and on the net profits earned during said period from businesses, professions or other activities conducted in the Township of Rush by non-residents; requiring the filing of declarations and returns, and the giving of information by employers and those subject to the tax, imposing on employers the duty of collecting the tax at the source, providing for the administration and enforcement of the ordinance, and imposing penalties for violation thereof.

BE IT ORDAINED AND ENACTED BY THE BOARD OF SUPERVISORS OF RUSH TOWNSHIP UNDER THE AUTHORITY OF THE ACT 511 OF 1965 AS AMENDED, KNOWN AS "THE LOCAL TAX ENABLING ACT".

SECTION 1. DEFINITIONS.

The following words and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Section except where the context clearly indicates or requires a different meaning.

"ASSOCIATION" - a partnership, limited partnership, or any other unincorporated group of two or more persons.

"BUSINESS" - an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, or any other entity.

"CORPORATION" - a corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency.

"EARNINGS" - salaries, wages, commissions and other compensation

as defined in this Ordinance.

"EMPLOYER" - an individual, partnership, association, corporation, governmental body or unit or agency, or any other entity employing one or more persons on a salary, wage, commission, or other compensation basis.

"NET PROFITS" - the net income from the operation of a business, profession or other activity, after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used in such business, profession or other activity, but without deduction of taxes based on income.

"NON-RESIDENT" - an individual, partnership, association, or other entity domiciled outside the Township of Rush.

"PERSON" - a natural person, partnership, corporation, fiduciary or association. When used in any Section prescribing and imposing a penalty, the term "PERSON" as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

"RESIDENT" - an individual, partnership, association, or other entity domiciled in the Township of Rush.

"SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION" - salaries, wages, commissions, bonuses, incentive payments, fees, and tips that may accrue or be received by an individual for services rendered, whether directly or through an agent and whether in cash or in property; not including periodic payments for sick or disability benefits and those commonly recognized as old-age benefits, retirement pay, or pensions paid to persons retired from service after reaching a specific

age or after a stated period of employment, or public assistance or employment compensation payments made by any governmental agency, or any wages or compensation paid by the United States to any person for active service in the Army, Navy or Air Force of the United States or any bonus or additional compensation paid by the United States or the Commonwealth of Pennsylvania or any other State for such service.

"TAXABLE" - subject to the tax imposed by this Ordinance.

"TAXPAYER"- a person, whether an individual, partnership, association, or any other entity, required hereunder to file a return of earnings or net profits, or to pay a tax thereon.

"INCOME TAX OFFICER" - Person designated by the Board of Supervisors of the Township of Rush to administer the provisions of the Earned Income Tax Ordinance.

SECTION 2. IMPOSITION OF TAX.

A tax for general revenue purposes of one (1%) percent is hereby imposed on the following:

(a) Salaries, wages, commissions and other compensation earned on and after January 1, 1967, by individual residents of the Township of Rush.

(b) Salaries, wages, commissions and other compensation earned on and after January 1, 1967, by individual non-residents of the Township of Rush in the Township of Rush.

(c) Net profits, earned on and after January 1, 1967, by residents of the Township of Rush, and

(d) Net profits, earned on and after January 1, 1967, in the Township of Rush by non-residents of the Township of Rush.

The tax levied under (a) and (b) herein shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to a period who is employed by him. The tax levied under (c) and (d) herein shall relate to and be imposed on the net profits of any business, profession or other activity carried on by any person or persons.

Every corporation which is subject to the Pennsylvania Corporate Net Income Tax or exempt from the Pennsylvania Corporate Net Income Tax and every foreign corporation which is subject to the Pennsylvania Franchise Tax or exempt from the Pennsylvania Franchise Tax, shall be exempt from the tax imposed by this Ordinance.

The tax levied by this Ordinance, shall be applicable to salaries, wages, commissions and other compensation and to net profits earned in the period beginning January 1, 1967 and ending December 31, 1967.

SECTION 3. DECLARATION AND PAYMENT OF TAX.

(a) NET PROFITS.

(1) Every person hereinafter called "TAXPAYER", who reasonably expects that he will earn any taxable net profits during the period between January 1, 1967 and December 31, 1967, shall on or before April 15, 1967, make and file with the Income Tax Officer on a form prescribed by the Income Tax Officer, a declaration of this estimated net profits for the period beginning January 1, 1967 and ending December 31, 1967, setting forth the estimated amount of net profits reasonable expected by him for the said period and subject to the tax, the amount of estimated tax imposed by this ordinance on such estimated net profits, and such other relevant information as the Income Tax Officer may require. The taxpayer making the declaration shall, at the time of filing thereof,

pay the Township of Rush one-fourth (1/4) of the estimated tax shown as due thereon and such Taxpayer shall thereafter pay one-fourth (1/4) of the estimated tax in each of three (3) installments, as follows: one installment on or before July 15, 1967, one installment on or before October 15, 1967, and the last installment on or before January 15, 1968.

(2) A person who on April 15, 1967, did not reasonably expect that he would earn any taxable net profits during the period between January 1, 1967 and December 31, 1967, and who subsequent to April 15, 1967, reasonably expects that he will earn taxable net profits on or before December 31, 1967, shall make and file on or before July 15, 1967, October 15, 1967 or January 15, 1968, whichever of these dates next follows the date on which the taxpayer first reasonably expects such net profits, a declaration similar to that required under the foregoing paragraph (1). The taxpayer making the declaration shall, at the time of filing thereof, pay to the Township of Rush the estimated tax shown as due thereon, provided, however, that the taxpayer shall have the right to pay the estimated tax in equal installments on or before the installment payment dates which remain after the filing of the declaration.

(3) The Income Tax Officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinafter required shall thereafter either reasonable expect additional net profits not previously declared or find that he has overestimated his net profits.

(4) On or before January 1, 1967, every taxpayer who has earned taxable net profits shall make and file with the Income Tax Officer, on a form prescribed by him, a final return showing all of such net profits

for the period beginning January 1, 1967, and ending December 31, 1967, the total amount of tax due, the amount of estimated tax paid under the provisions of this Section, and the balance due. When the return is made for a fiscal year different from the calendar year, the return shall be made within one hundred and five (105) days from the end of the said fiscal year. The percentage of the total net profits of any calendar or fiscal year of a taxpayer beginning or ending within the period beginning January 1, 1967 and ending December 31, 1967, to which the tax imposed by this ordinance shall be applicable shall be equal to the same percentage of such total net profits as the number of days in any such year within such period bears to the total number of days in any such year.

At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

(5) Every taxpayer who discontinues business prior to December 31, 1967, shall within thirty (30) days after the discontinuance of business, file his final return as hereinabove required and pay the tax due, or demand refund or credit in the case of overpayment.

(b) SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION.

(1) Every taxpayer who is employed on a salary, wage, commission, or other compensation basis and who reasonably expects to earn any taxable earnings not subject to the provisions of Section 4 of this ordinance relating to the collection at source, shall, on or before April 15, 1967, make and file with the Income Tax Officer, a declaration of his estimated total amount of taxable salaries, wages, commissions and other compensation for the period beginning January 1, 1967, and ending December 31, 1967; the estimated amount of the tax thereon that will be de-

ducted therefrom pursuant to Section 4 of this ordinance, the estimated amount of tax imposed by this ordinance that will not be deducted therefrom pursuant to Section 4 and such other relevant information as the Income Tax Officer may require. In preparing his declaration of estimated taxable salaries, wages, commissions and other compensation taxable under this ordinance, the taxpayer shall use the same amounts with respect to such items as he shall have used in preparing his declaration of estimated tax for the year 1967 for federal income tax purposes, if such taxpayer shall be required to file any such last-mentioned declaration.

(2) A person who on April 15, 1967, did not reasonable expect that he would earn any salaries, wages, commissions and other compensation not subject to the provisions of Section 4 of this ordinance relating to the collection at source, during the period between January 1, 1967 and December 31, 1967, and who subsequent to April 15, 1967, reasonable expects that he will earn salaries, wages, commissions and other compensation, not subject to the provisions of Section 4 of this ordinance, on or before December 31, 1967, shall make and file on or before July 15, 1967, October 15, 1967, or January 15, 1968, whichever of these dates next follows the date on which the taxpayer first reasonable expects that he will earn such salaries, wages, commissions and other compensation, a declaration similar, to that required under the immediately foregoing paragraph (1). The taxpayer making the declaration shall at the time of filing thereof pay to the Township of Rush the estimated tax shown as due thereon, provided, however, that the taxpayer shall have the right to pay the estimated tax in equal installments on or before the installment payment dates which remain after the filing of the declaration.

(3) The Income Tax Officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated salaries, wages, commissions and other compensation, and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required shall thereafter either reasonable expect additional salaries, wages, commissions and other compensation not previously declared or find that he has overestimated his salaries, wages, commissions and other compensation.

(4) On or before April 15, 1967, every taxpayer who has received taxable salaries, wages, commissions and other compensation shall make and file with the Income Tax Officer on a form prescribed by him a final return showing all such salaries, wages, commissions and other compensation earned during the period beginning January 1, 1967, and ending December 31, 1967, the total amount of tax due thereon, the amount of estimated tax thereon paid under the provisions of this Section, if any, and the amount, if any, of tax thereon that has been withheld pursuant to the provisions of Section 4 of this ordinance and the balance of tax due.

At the time of filing the final return, the tax payer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

SECTION 4. COLLECTION AT SOURCE.

(a) Every person within the Township of Rush who employs one or more persons on a salary, wage, commission or other compensation basis other than domestic servants, shall deduct, at the time of the payment thereof, the tax imposed by this ordinance on the salaries, wages, commissions and other compensation due to his employee or employees, and

shall on or before April 31, 1967, July 31, 1967, October 31, 1967 and January 31, 1968, respectively, make and file with the Income Tax Officer on a form prescribed by the Income Tax Officer a return, setting forth the taxes so deducted and pay to the Township of Rush the amount of taxes deducted for the preceding quarterly periods ending March 31, 1967, June 30, 1967, September 30, 1967 and December 31, 1967, respectively.

(b) On or before March 15, 1968, every such employer shall file with the Income Tax Officer on forms prescribed by him:

(1) An annual return showing the total amount of salaries, wages, commissions, and other compensation earned by his employee or employees, on which a tax is imposed by this ordinance, the total amount of tax deducted and the total amount of tax paid to the Township of Rush in respect of salaries, wages, commissions and other compensation earned by his employee or employees during the period beginning January 1, 1967 and ending December 31, 1967; and

(2) A return in respect of each person who was an employee during all or any part of the period beginning January 1, 1967 and ending December 31, 1967, and who earned during such period any salaries, wages, commissions or other compensation subject to the tax imposed by this ordinance, setting forth the employee's name, address and Social Security number, the amount of such salaries, wages, commissions or other compensation earned by the employee during said period, the amount of tax deducted therefrom and such other relevant information as the Income Tax Officer may require. Every employer shall furnish a copy of the individual return to the employee in respect of whom it was filed.

(c) Every employer who discontinues business prior to December 31, 1967, shall, within thirty (30) days after the discontinuance of business, file the returns hereinabove required and pay the tax due.

(d) The failure or omission of any employer to make the deductions required by this Section shall not relieve any employee from the payment of the tax or from complying with the requirements of this ordinance relating to the filing of declarations and returns.

(e) If an employer makes a deduction of tax as required by this Section 4, the amount deducted shall constitute in the hands of such employer a trust fund held for the account of the Township of Rush as beneficial owner thereof and the employee from whose salaries, wages, commissions or other compensation such tax was deducted shall be deemed to have paid such tax.

SECTION 5. POWERS AND DUTIES OF THE INCOME TAX OFFICER.

(a) It shall be the duty of the Income Tax Officer to collect and receive the taxes, fines and penalties imposed by this ordinance. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and, if paid by such person in respect of another person, the name of such other person, and the date of such receipt.

(b) The Income Tax Officer is hereby charged with the administration and enforcement of the provisions of this ordinance, and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this ordinance, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this ordinance.

(c) The Income Tax Officer, and agents designated in writing by

him, are hereby authorized to examine the books, papers and records of any person in order to verify that accuracy of any declaration or return, or, if no declaration or return was filed, to ascertain the tax due, Every person is hereby directed and required to give to the Income Tax Officer or to any agent so designated by him the opportunity for such examinations and investigations as are hereby authorized.

(d) Any information gained by the Income Tax Officer, his agents, or by any other official, agent, or employee of the Township of Rush as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this ordinance or as otherwise provided by law.

(e) Any person aggrieved by any action of the Income Tax Officer shall have the right of appeal as provided by law.

SECTION 6. SUIT FOR COLLECTION OF TAX.

(a) The Income Tax Officer may sue in the name of the Township of Rush for the recovery of taxes due and unpaid under this ordinance.

(b) Any suit brought to recover the tax imposed by this ordinance shall be begun within six (6) years after such tax is due or within six (6) years after a declaration or return has been filed, whichever date is later, provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

(1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under the provi-

sions of this ordinance.

(2) In the case of a false or fraudulent declaration or return with the intent to evade tax.

(3) Where any person has deducted taxes under the provisions of this ordinance and has failed to pay the amounts so deducted to the Township of Rush.

SECTION 7. INTEREST AND PENALTIES.

If for any reason the tax is not paid when due, interest at the rate of six (6%) percent per annum on the amount of said tax, and an additional penalty of one-half of one percent (15%) 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.

SECTION 8. PAYMENT AND REFUNDS.

The Income Tax Officer is hereby authorized to accept payment of the amount of tax claimed by the Township in any case where any person disputes the validity or amount of the Township's claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Income Tax Officer, the amount of the overpayment shall be refunded to the person who paid.

SECTION 9. APPLICABILITY.

The tax imposed by this ordinance shall not apply:

(a) To any person as to whom it is beyond the legal power of the Township of Rush to impose the tax herein provided for under the Consti-

tution of the United States and the Constitution and Laws of the Commonwealth of Pennsylvania.

(b) To the net profits of any institution or organization operated for public, religious, educational or charitable purposes, to an institution or organization one organized or operated for private profit, or to a trust or a foundation established for any of the said purposes.

This section shall not be construed to exempt any person who is an employer from the duty of collecting the tax at source from his employees and paying the amount collected to the Township of Rush under the provisions of Section 4 of this ordinance.

SECTION 10. FINES AND PENALTIES FOR VIOLATION OF ORDINANCE.

(a) Any person who fails, neglects or refuses to make any declaration or return required by this ordinance; any employer who fails, neglects or refuses to pay the tax deducted from his employees, any person who refuses to permit the Income Tax Officer or any agent properly designated by him to examine his books, records and papers; and any person who makes any incomplete, false or fraudulent return to avoid the payment of the whole or any part of the tax imposed by this ordinance, shall, upon conviction thereof before any Justice of the Peace, be sentenced to pay a fine of not more than one hundred (\$100.00) dollars for each offense and costs, and, in default of payment of said fine and costs, to be imprisoned in the Schuylkill County Jail for a period not exceeding thirty (30) days.

(b) Any person who, except as permitted by the provisions of subsection (d) of Section 5 of this ordinance, divulges any information which is confidential under the provisions of said Sub-section shall, upon conviction thereof before any Justice of the Peace, be sentenced to

pay a fine of not more than one hundred (\$100.00) dollars for each offense and costs, and, in default of payment of said fine and costs, to be imprisoned in the Schuylkill County Jail for a period not exceeding thirty (30) days.

(c) The penalties imposed under this Section shall be in addition to any other penalty imposed by any other section of this ordinance.

(d) The failure of any person to receive or procure the forms required for making any declaration or return required by this ordinance shall not excuse him from making such declaration or return.

SECTION 11. SEVERABILITY.

The provisions of this ordinance are severable. If any sentence, clause or section of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this ordinance. It is hereby declared to be the intent of the Board of Supervisors of the Township of Rush that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause or section not been included herein.

PASSED and finally adopted by the Board of Supervisors of Rush Township, this 28 day of November, 1966.

Samuel C. Kelleet (SEAL)

Clarence Hartranft (SEAL)

Henry T. Blackwell (SEAL)