

ORDINANCE NO. 29

AN ORDINANCE IMPOSING A TEN (\$10.00) DOLLAR TAX ON PRIVILEGE OR ENGAGING IN ANY OCCUPATION, TRADE, PROFESSION, BUSINESS OR UNDERTAKINGS OF ANY KIND FOR WHICH COMPENSATION IS CHARGED WITHIN THE TOWNSHIP LIMITS IF THE GROSS EARNINGS THEREFROM EXCEED FIVE HUNDRED (\$500.00) DOLLARS IN ANY CALENDAR YEAR, AND PROVIDING FOR THE COLLECTION THEREOF AND FOR PENALTIES UPON FAILURE TO REMIT BY THE PERSON SO GAINFULLY ENGAGED OR IN CERTAIN CASES, HIS EMPLOYER.

The TOWNSHIP OF RUSH, SCHUYLKILL COUNTY, PENNSYLVANIA, hereby ORDAINS and ENACTS the following:

SECTION 1. DEFINITIONS. The following words and phrases when used in this Ordinance shall have the meaning ascribed to them in this Section unless the context clearly indicates a different meaning:

- (a) "INDIVIDUAL" shall mean any person, male or female, engaged in any occupation of any nature, type or kind whatsoever, within the limits of the TOWNSHIP OF RUSH.
- (b) "OCCUPATION" shall mean any trade, profession, business, or undertaking of any type or kind carried on or performed within the limits of the TOWNSHIP OF RUSH for which compensation is received, whether by means of salary, wages, commission or for services rendered; EXCEPTING however, where an individual maintains and by affidavit reports to the tax receiver a principal office or principal place of employment outside the limits of the TOWNSHIP OF RUSH, which said individual is subject to a tax on the privilege of being employed within the municipal subdivision or school district of his principal office or principal place of business; AND EXCEPTING FURTHER, HOWEVER, that individual earnings less than FIVE HUNDRED (\$500.00) DOLLARS of gross income from any trade, profession, business or undertaking of any kind carried on or performed within the Township limits shall be excepted from the imposition of the tax.
- (c) "EMPLOYER" shall mean an individual, partnership, limited partnership, association, governmental body, agency, corporation, or other entity, that engages the services within the Township of any individual and makes payment to said individual whether by salary, wages, commission, or any other thing of value, including a self-employed person.

- (d) "TAX RECEIVER" shall mean the person designated by the TOWNSHIP OF RUSH for the collection of this occupation privilege tax.
- (e) "TAX" shall mean the Occupational Privilege Tax in the amount of TEN (\$10.00) DOLLARS levied by this Ordinance.
- (f) "THE TOWNSHIP" shall mean the area within the limits of the TOWNSHIP OF RUSH, SCHUYLKILL COUNTY, PENNSYLVANIA, AS now constituted and including any area or areas annexed hereto in the future during the effective period or renewals thereof of this Ordinance.
- (g) "HE", "HIS" or "HIM" shall mean and indicate the singular and plural number as well as male, female, and neuter gender.

SECTION 2. LEVY AND AMOUNT OF TAX. The Township hereby imposes on each individual engaged in an occupation within the limits of the Township during the calendar year 1968, a tax of TEN (\$10.00) DOLLARS upon the privilege of engaging in such occupation. This tax is in addition to any or all other taxes of any kind or nature heretofore levied by the Township.

SECTION 3. DUTY OF EMPLOYERS. Each employer within the Township is hereby charged with the duty of collecting and paying over to the Township Tax Receiver from each employee engaged in his services, the said tax of TEN (\$10.00) DOLLARS per year upon each individual employed by said employer who performs services on behalf of said employer within the Township or who is engaged in an occupation, as herein defined, for the benefit of the said employer or in the service of said employer within the limits of the Township. Each employer shall make a return and payment of said tax whether said employee is paid by salary, wages, or commission. Each employer shall prepare and file a return showing a computation of the tax on a form to be obtained by him from the Township Tax Receiver. Each employer in filing his return and making payment by deduction from the salary, wages, commission or other compensation payable to him from his employees shall be entitled to retain a commission calculated at two (2%) per cent on the gross tax due and payable by each individual, provided that such tax is collected and

paid over to the Tax Receiver by the employer within the sixty (60) days first following the First day of JULY, 1968, the due date of said tax or within sixty (60) days from the pay period in which the compensation paid to any employee exceeds the sum of FIVE HUNDRED (\$500.00) DOLLARS whichever is later. It is further provided that if the employer fails to file said return and pay said tax but makes collection thereof from the salary, wages, or commissions paid by him to said employee, the employer shall be responsible for payment of the tax in full without any deductions or commissions as though the tax had originally been levied against him.

SECTION 4. SELF-EMPLOYED INDIVIDUALS WITHIN THE LIMITS OF THE TOWNSHIP OF RUSH. Each self-employed individual who performs any service of any kind within the limits of the Township, whether same be regarded either as a profession, trade, or business, shall be required to comply with this Ordinance and to pay an occupational privilege tax of TEN (\$10.00) DOLLARS for himself, due, without discount, within sixty (60) days first following the First day of JULY, 1968, or within sixty (60) days from which said self-employed person earns a gross income of FIVE HUNDRED (\$500.00) DOLLARS, whichever is later.

SECTION 5. INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION.

(a) Each individual who shall have more than one occupation within the Township shall be subject to the payment of the annual occupation tax solely upon his principal occupation and his principal employer shall deliver to him a certificate of payment in a form to be furnished to the employer by the Township Tax Receiver certifying to any other employment of such individual that said occupational tax has been paid to the Township Tax Receiver. Any employer receiving such certificate of payment of the occupational tax by another employer by deduction from the said individual shall not deduct or collect the occupational tax imposed by this Ordinance.

(b) It is the intent of this Ordinance that no individual

shall pay more than TEN (\$10.00) DOLLARS in any calendar year as an occupational privilege tax, irrespective of the number and variety of jobs, trades, or occupations engaged in by said individual, and irrespective of the number of political sub-divisions within which any individual may be employed.

Individuals maintaining occupations in the Township and in other political subdivisions or school districts, which also impose a like tax to which said individual is subject, shall be excused from the payment of the tax levied by this Ordinance upon the filing of an Affidavit with the Tax Receiver to this effect, and to the effect that said individual's principal office or principal place of employment is outside the Township.

SECTION 6. EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS RESIDING BEYOND THE LIMITS OF THE TOWNSHIP OF RUSH.

All employers and self-employed individuals residing or having their places 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 employee of a nonresident 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 shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

SECTION 7. POWERS AND DUTIES OF THE TOWNSHIP TAX RECEIVER.

(a) It shall be the duty of the Township Tax Receiver to collect and receive the taxes, fines, or penalties imposed by this Ordinance. It shall also be his duty to keep a record showing the amount received by him from each self-employed person paying the tax and the date of such receipt; and further, it shall be his duty to keep a re-

cord showing the amount received by him from every employer paying the tax on behalf of his employees by deduction made by such employer from the salary, wages, commissions, or other forms of recompense. Said accounts shall be audited annually at the direction and the expense of the Township.

(b) The Township Tax Receiver 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 a provision for the examination of the payroll records of any employer within or without the Township; and further, for the re-examination of any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Township Tax Receiver shall have the right to appeal first to the Board of Supervisors or the Township, and thereafter to the Court of Common Pleas of Schuylkill County as in other cases provided.

(c) The Township Tax Receiver is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by any employer on behalf of his employees, or, if no return was made, to ascertain the occupational privilege tax due. Each employer located or residing in or outside the Township is hereby directed and required to give to the Township Tax Receiver the means, facilities and opportunity for such examination and investigations as are hereby authorized.

(d) If the said tax is not paid when due in each fiscal year, interest thereon shall begin to accrue at the rate of six (6%) per cent per annum on the amount of said tax remaining unpaid sixty (60) days after due.

#### SECTION 8. SUIT ON COLLECTIONS.

(a) In addition to any other remedies provided by law, the Township Tax Receiver may sue for the recovery of any tax due or unpaid

under this Ordinance.

(b) Where suit is brought for the recovery of this tax, the individual liable thereafter shall, in addition to the interest as set forth in Section 7 (d) be responsible and liable for the costs of collection and penalties herein imposed.

SECTION 9. FINES AND PENALTIES.

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 or control, in order to determine the number of employees subject to the occupational tax who are in his employment or whoever fails or refuses to file any return required by this Ordinance shall, upon conviction before the Board of Supervisors or any Justice of the Peace, 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 to be imprisoned in Schuylkill County Prison for a period of not to exceed thirty (30) days for each offense.

SECTION 10. 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 powers of the Township under the Constitution of the United States and the Laws and Constitution 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 Commonwealth of Pennsylvania, as to any individuals, 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 upon other persons or individuals as herein provided.

SECTION 11. This ORDINANCE is ENACTED under the authority of the Act of June 25, 1947, P.L. 1145, and its amendments.

SECTION 12. This ORDINANCE shall become effective thirty

(30) days after its adoption in accordance with the Local Tax Enabling Act of 1965 (Act 511) and its amendments, and shall remain in effect for the balance of the calendar year beginning the First day of July, 1968, and thereafter as so re-ordained by the Township.

ORDAINED and ENACTED BY THE BOARD OF SUPERVISORS OF RUSH TOWNSHIP, COUNTY OF SCHUYLKILL AND COMMONWEALTH OF PENNSYLVANIA, this 14th day of JUNE, 1968.

C E R T I F I C A T I O N

I hereby certify that the foregoing is a true and correct copy of ORDINANCE NO. 29 which was enacted and ordained by the Rush Township Board of Supervisors at a Special Meeting held for that purpose on Friday, JUNE 14, 1968.

Homer E. Neifert  
Secretary, Rush Township Board of  
Supervisors