

WASHINGTON TOWNSHIP

ORDINANCE NO. 151

AN ORDINANCE IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON OCCUPATIONS ENGAGED IN BY INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN SAID OCCUPATIONS WITHIN THE CORPORATE LIMITS OF THE TOWNSHIP OF WASHINGTON AT THE 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 COLLECTOR; CONFERRING AND IMPOSING POWERS AND DUTIES OF THE COLLECTOR AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF; AND PROVIDING FOR REFUND OF SAID TAX PAID BY INDIVIDUALS EARNING LESS THAN ONE THOUSAND (\$1,000.00) DOLLARS FROM SUCH OCCUPATION OR OCCUPATIONS.

BE IT ORDAINED AND ENACTED by the Supervisors of the Township of Washington under the authority of the Local Tax Enabling Act, being Act No. 511, effective January 1, 1967, as amended 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 or profession within the corporate limits of the Township of Washington, Northampton County, Pennsylvania.

(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 corporate limits of the Township of Washington for which compensation is charged or received whether by means of salary, wages, commissions 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 Occupational Privilege Tax in the amount of Ten (\$10.00) Dollars levied by this Ordinance.

(e) "FISCAL YEAR" shall mean the period beginning January 1, 1968, and ending December 31, 1968.

(f) "TOWNSHIP" shall mean the area within the corporate limits of

the Township of Washington, Northampton County, Pennsylvania.

(g) "HE", "HIS", or "HIM" shall mean and indicate the singular and plural number as well as male, female and neuter gender.

(h) "OCCUPATIONAL PRIVILEGE TAX COLLECTOR" shall mean the person who shall be designated by Resolution of the Township of Washington to collect and administer the tax.

SECTION 2. Levy.

The Township of Washington hereby levies and imposes on each occupation engaged in by individuals within its corporate limits during the fiscal year an Occupational Privilege Tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township.

SECTION 3. Amount of Tax.

Beginning with the first day of January, 1968, each occupation as hereinbefore defined, engaged in within the corporate limits of the Township shall be subject to an Occupational Privilege Tax in the amount of Ten (\$10.00) Dollars per annum. Said tax to be paid by the individual so engaged.

SECTION 4. Duty of Employers.

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 (\$10.00) Dollars per annum and making a return and payment thereof to the Occupational Privilege Tax Collector. 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 such services are performed within the Township.

SECTION 5. Returns.

Each employer shall prepare and file a return showing a computation of the Tax on forms to be supplied by the Occupational Privilege Tax Collector to each employer. Each employer in filing this return and making payment of the Tax withheld from his employees shall be entitled to retain a commission calculated at the rate of two per cent (2%) of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. 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 employees, the employer shall be responsible for the payment of the tax in full without deducting

a commission as though the tax had originally been levied against him.

SECTION 6. Dates for Determining Tax Liability and Payment.

Each employer shall use his employment records from the first day of January 1968 to the 31st day of March, 1968, for determining the number of employees from whom said tax shall be deducted and paid over to the Collector on or before April 30, 1968.

Supplemental reports and payment of tax due thereon shall be made by each employer on July 31, 1968, October 31, 1968, and January 31, 1969, of new employees as reflected on his employment records from April 1, 1968, to June 30, 1968, July 1, 1968 to September 30, 1968, and October 1, 1968, to December 31, 1968. Payment of tax due on these supplemental reports shall be made on July 31, 1968, October 31, 1968 and January 31, 1969 respectively.

SECTION 7. Claim for Refund.

In the event that an individual should fail to earn salary, wages, commissions or other compensation taxable under this Ordinance of One Thousand (\$1,000.00) Dollars or more, said individual may on or before March 1, 1969, apply for and be granted a refund of the Occupational Privilege Tax paid by said individual during the Fiscal Year, forms for said Refund to be provided by the Occupational Privilege Tax Collector.

SECTION 8. Priority of Claim to Collect Tax.

The situs of such tax shall be the Township, but, in the event an individual is engaged in more than one occupation, or an occupation which requires his working in more than one political subdivision during the Fiscal Year, the priority of claim to collect such occupational privilege tax shall be in the following order; First, the political subdivision in which a person maintains his principal office or is principally employed; second, the political subdivision in which the person resides and works, if such a tax is levied by that political subdivision; third, the political subdivision in which an individual is employed and which imposes the tax nearest in miles to the individual's home. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the Fiscal Year. It is the intent of this provision that no person shall pay more than Ten Dollars (\$10.00) in any Fiscal Year as an occupational privilege tax, irrespective of the number of political subdivisions within which such individual may be employed within any given Fiscal Year. In case of dispute, a tax receipt of the taxing authority for that Fiscal Year declaring that the taxpayer has made prior payment which constitutes prima facie certification of payment of tax to all other political subdivisions.

SECTION 9. 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 Occupational Privilege Tax Collector on April 30, 1968, or as soon thereafter as he engages in an occupation, no later, however, than January 15, 1969.

SECTION 10. 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, 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 Township shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

SECTION 11. Administration of Tax.

(a) It shall be the duty of the Occupational Privilege Tax Collector 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 Occupational Privilege Tax 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, or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Occupational Privilege Tax Collector shall have the right to appeal to the Court of Common Pleas of Northampton County as in other cases provided.

(c) The Occupational Privilege Tax Collector 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 Occupational Privilege Tax Collector the means, facilities and opportunity for such examination.

SECTION 12. Suits for Collection.

(a) In the event that any tax under this Ordinance remains due or unpaid thirty (30) days after the due dates above set forth, the Occupational Privilege Tax Collector may sue for the recovery of any such tax due or unpaid under this Ordinance together with interest and penalty.

(b) 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 shall be calculated beginning with the due date of said tax and a penalty of five per cent (5%) 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 costs of collection.

SECTION 13. 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 Magistrate, Alderman or Justice of the Peace, be sentenced to pay a fine of not more than Three Hundred (\$300.00) Dollars for each offense and in default of payment of said fine be imprisoned in Northampton County Prison 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 14. 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 herein.

SECTION 15. 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 16. Effective Date.

This Ordinance shall become effective January 1, 1968, and remain in force and effect from that date for the 1968 year.

ENACTED and ordained into an Ordinance this 14th day of December, 1967.

Earle R. Jennings
Chairman

Saul B. Wagner

LeRoy R. Hester

Board of Supervisors of Washington
Township

ATTEST:

Gloria G. Clark
Secretary