

SHAMOKIN TOWNSHIP BOARD OF SUPERVISORS

ORDINANCE NO. 1982-1

AN ORDINANCE PROVIDING FOR AND REGULATING THE ASSESSMENT, LEVY AND COLLECTION OF AN ANNUAL BUSINESS PRIVILEGE TAX PAYABLE BY PERSONS, FIRMS, COMPANIES AND CORPORATIONS ENGAGED IN BUSINESS AS DESCRIBED HEREIN WITHIN THE TOWNSHIP OF SHAMOKIN, NORTHUMBERLAND COUNTY, PENNSYLVANIA; CONFERRING AND IMPOSING POWERS AND DUTIES UPON THE TAX ADMINISTRATOR; PROVIDING FOR ITS LEVY AND COLLECTION; AND IMPOSING PENALTIES FOR THE VIOLATION OF SAID ORDINANCE.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Shamokin, Northumberland County, Pennsylvania, in regular meeting assembled, and it is hereby enacted and ordained pursuant to the dictates of an act of general assembly approved the 31st day of December, 1965, No. 511, effective January 1, 1966, known as "the local tax enabling act" as follows:

SECTION I - SHORT TITLE

This Ordinance shall henceforth be known and may be cited as the "Shamokin Township Business Privilege Tax".

SECTION II - DEFINITIONS

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

A. BUSINESS. Any activity carried on or exercised

for gain or profit in the Township of Shamokin including, but not limited to, the sale of merchandise or other tangible personalty or the performance of services and the rental of personalty and/or realty.

B. CALENDAR YEAR shall mean the twelve (12) month period beginning January 1 and ending December 31, inclusive.

C. LICENSE YEAR shall mean the twelve (12) month period beginning January 1 and ending December 31, inclusive.

D. TAX YEAR shall mean the twelve (12) month period beginning January 1 and ending December 31, inclusive.

E. PERSON. Any individual, partnership, limited partnership, association, for or corporation. Whenever used in any clause prescribing or 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.

F. TAXPAYER. A person subject to the payment of the tax imposed by this Ordinance.

G. TAX ADMINISTRATOR. The person duly appointed by the Board of Supervisors of the Township of Shamokin to administer this Ordinance.

H. TOWNSHIP OF SHAMOKIN. The area within the geographical boundary lines of the said Township located in Northumberland County, Pennsylvania.

I. WHOLESALE DEALER or WHOLESALE VENDOR. Any person who sells to dealers in or vendors of goods, wares and merchandise

and to no other persons.

SECTION III

A. There is hereby levied for the initial tax year beginning July 1, 1982, and annually thereafter, a tax for general revenue purposes on the privilege of doing business as herein defined in the Township of Shamokin as follows:

1. RATE AND BASIS OF TAX. The rate of the tax on each and every dollar of the whole or gross volume of business transacted within the territorial limits of the Township of Shamokin shall be one and one-half (1 1/2) mills; except that the rate of the tax on each and every dollar of the whole or gross volume of business transacted by wholesale dealers or wholesale vendors within the territorial limits of the Township of Shamokin shall be one (1) mill. All non-wholesale dealers or non-wholesale vendors shall be taxed at the general rate of one and one-half (1 1/2) mills. One and one-half (1 1/2) mills shall mean One Dollar and Fifty (\$1.50) Cents per One Thousand (\$1,000.00) Dollars of gross volume of business. One (1) mill shall mean One (\$1.00) Dollar per One Thousand (\$1,000.00) Dollars of gross volume of business.

2. COMPUTATION OF VOLUME OF BUSINESS.

(a) Every person subject to the payment

of the tax hereby imposed who has commenced his business prior to the full calendar year prior to the tax year shall compute his annual estimated gross volume of business upon the actual gross amount of business transacted by him during said immediately preceding calendar year.

(b) Every person subject to the payment of the tax hereby imposed who has commenced or who commences his business before the beginning of the tax year but after the beginning of the full calendar year prior to the tax year, shall compute his estimated annual gross volume of business for the tax year upon the gross volume of business transacted by him during prior calendar year, taking the monthly average during said period and multiplying the same by twelve (12). In the event that he shall be in business fewer than ninety (90) days in the prior calendar year, he shall be permitted to use sufficient days in calendar year in which the tax year begins to equal ninety (90) successive days after commencement of business, to take a monthly average thereon, and to multiply the average by twelve (12).

(c) Every person subject to the payment of the tax hereby imposed who has commenced or commences

his business subsequent to the beginning of the tax year, if there shall be less than three (3) months from the commencement of his business to the end of the tax year, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the tax year;

If there shall be more than three (3) months from the commencement of his business to the end of the tax year he shall compute his estimated gross volume of business for such tax year upon the gross volume of business transacted by him during the period from the commencement of his business to the end of the tax year, taking the monthly average during the first three (3) months of business and multiplying the same by the number of months from the commencement of business to the end of the tax year.

(d) Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal or itinerant by nature, shall compute his estimated gross amount of business to be transacted by him for the period said person engages in such temporary, seasonal or itinerant business within the Township of Shamokin by a method to be determined by the Tax Administrator.

(e) The Tax Administrator is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Township of Shamokin in any case where the taxpayer disputes the validity or amount of the Township of Shamokin's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that the Township of Shamokin has been overpaid, the amount of over-payment shall be refunded to the taxpayer. The provisions of this Section shall be applicable to cases in which the facts are similar to those in a case litigated in a court of competent jurisdiction.

3. PERSONS, BUSINESS AND RECEIPTS EXEMPTED.

(a) Persons and Businesses - Persons employed for a wage or salary, non-profit corporations or associations organized for religious, charitable or educational purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania and the business of any political subdivision, or of any authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this

Ordinance.

(b) No such tax shall be assessed and collected on a privilege, transaction, subject, or occupation which is subject to a state tax or license fee, and which tax or license fee has been held by the Courts of Pennsylvania to be the basis for exemption from the imposition of a business privilege tax by a municipality.

(c) Utilities - No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission; or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.

(d) State Tax on Tangible Property - No such tax shall be assessed and collected on the privilege of employing such tangible property as is subject to a state tax except on sales of admission to places of amusement or on sales or other transfers of title or possession or property.

(e) Production and Manufacture - No such tax shall be assessed and collected on goods, articles,

and products, or on by-products of manufacture, or on minerals, timber, natural resources, and farm products, manufactured, produced or grown in the Township of Shamokin or on the preparation or processing thereof for use or market, or on any privilege, act or transaction relating to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources or farm products, by manufacturers, by producers, and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or any privilege, act or transaction relating to the business of processing by-products of manufacture, or the transportation, loading, unloading or dumping or storage of such goods, articles, products or by-products.

4. DETERMINATION OF GROSS OR WHOLE VOLUME BUSINESS.

Gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made, rentals and/or services rendered, subject only to the following allowable deductions and exemptions:

(a) The dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as trade-in or as part payment for other

goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

(b) Refunds, credits, or allowances given by a taxpayer to a purchaser on account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned.

(c) Any commissions paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker.

(d) Bad debts, where the deduction is also taken in the same year for Federal Income Taxation purposes.

(e) Taxes collected as agent for the United States of America, Commonwealth of Pennsylvania, or the Township of Shamokin.

(f) The first One Thousand (\$1,000.00) Dollars of such annual gross or whole volume of business.

5. PARTIAL EXEMPTIONS. Where gross or whole volume of business in its entirety cannot be subjected to the tax imposed by this Ordinance by reason of the provisions of the Constitution of the United States or any other provision of law, the Tax Administrator with the approval of the Board of Supervisors of the Township of Shamokin shall establish rules and regulations and methods

of allocation and evaluation so that only that part of the gross or whole volume business which is properly attributable and allowable to doing business in the Township of Shamokin shall be taxed hereunder.

6. RATE WHEN SAME TAX IS IMPOSED BY TWO TAXING BODIES. If any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act of 1965, December 31, Act 511, and its amendments, to the Township of Shamokin and one or more political subdivisions of the State, then and in that event the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but in no event, shall the combined taxes of both subdivisions exceed a maximum rate of tax as fixed by the said Enabling Act permitting the imposition of such taxes.

7. RECORDS. The taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep books and records of his business so as to show clearly, accurately, and separately the amount of such sales and services as are excluded from the tax and the amounts of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided.

SECTION IV - RETURNS

A. Every return shall be made upon a form furnished by the Tax Administrator. Every person making a return shall certify the correctness thereof by affidavit.

B. Every person subject to the tax imposed by this Ordinance who commences his business on or before January 1 of the full calendar year previous to the beginning of any tax year shall on or before the 15th day of April of the tax year, file with the Tax Administrator a return setting forth his name, his business, business address, and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, and the amount of the tax due.

C. Every person subject to the tax imposed by this Ordinance who has commenced his business before the beginning of the tax year, but after January 1 of the full calendar year previous to the beginning of the tax year shall on or before the 15th day of April of the tax year, file with the Tax Administrator, a return setting forth his name, his business, business address, and such other information as may be necessary in arriving at the estimated gross amount of business transacted by him as calculated under Section IIIA (2) (b) hereof and the amount of tax due.

D. Every person subject to the tax imposed by this Ordinance who commences business subsequent to the beginning of any tax year shall within one hundred (100) days from date of

commencing business, if said one hundred (100) day periods end after April 15 of the tax year, and if prior thereto on April 15 of the tax year, file a return with the Tax Administrator setting forth his name, his business and business address, and such information as may be necessary in arriving at the estimated or actual gross amount of business transacted by him as calculated under Section IIIA (2) (c) hereof and the amount of tax due.

E. Every person subject to the payment of the tax imposed by this Ordinance who engages in a business temporary, seasonal or itinerant by its nature shall at the time application is made for the business privilege license, file a return with the Tax Administrator setting forth his name, his business, his business address and such information as may be necessary in arriving at the estimated gross amount of business to be transacted by him as calculated in accordance with Section III A (2) (d).

F. Any person going out of or ceasing to do business shall, within seven (7) days from the date of ceasing to do business, file a return showing the actual gross volume of business conducted and done by such person during that tax year in which said person ceased doing business, and pay the tax due as computed thereon at the rate herein provided for at the time of filing said return. If such tax has been previously paid based upon estimated gross receipts, the taxpayer shall be entitled to a refund, without interest, of any excess tax paid for the tax year in which business was terminated.

G. PAYMENT OF TAX AND PENALTIES FOR LATE PAYMENT.

The Shamokin Township Business Privilege Tax levied pursuant to this Ordinance shall be due and payable on the date on which the taxpayer is required to file a return as set forth above.

(a) All taxes, interest and penalties due and unpaid under this Ordinance shall be recoverable by the Township of Shamokin's Solicitor as other debts due the Township of Shamokin are now by law recoverable.

(b) All taxes due under this Ordinance shall bear interest at the rate of one-half (1/2%) per cent per month, or fractional part thereof, from the day they are due and payable until paid.

(c) If any taxpayer neglects or refuses to make any return or payment as herein required, a penalty of ten (10%) per cent of the amount of tax due shall be added by the Tax Administrator.

H. RECEIPT. The Tax Administrator shall, upon payment to him of the Business privilege tax, give the person paying the same a receipt therefore.

SECTION V - LICENSE

After the effective date of this Ordinance, any person desiring to conduct, or to continue to conduct any business, as herein defined, within the Township of Shamokin shall file with the Tax Administrator an application for a Business Privilege License.

SECTION VI - POSTING

The license issued shall be conspicuously posted in the place of business for which such license is issued, and shall remain in effect for the license year or fraction of year for which said license was issued. In cases where business is conducted in more than one (1) place, a separate license shall be issued for each place of business. Any taxpayer who is in default in payment of tax due hereunder shall be refused a license until such tax is paid in full.

SECTION VII - PENALTY

Whoever fails, neglects or refuses to comply with any of the provisions of this Ordinance, or any regulations or requirements made pursuant thereto and authorized thereby, or whoever knowingly makes any false or untrue statements on his return shall be fined not more than Three Hundred (\$300.00) Dollars for each offense or imprisoned not more than ninety (90) days, or both. The fine imposed by this Section shall be in addition to any other penalty imposed by any other Section of this Ordinance.

SECTION VIII - CONTINUING OFFENSE

Each day on which such person violated the Ordinance may be considered as a separate offense and punishable as such as aforeprovided.

SECTION IX - DUTIES OF THE TAX ADMINISTRATOR

A. The Tax Administrator is charged with the duties

of collecting and receiving the taxes, fines, and penalties imposed by this Ordinance. It shall be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.

B. The Tax Administrator and his duly appointed deputies are hereby empowered with the approval of the Board of Supervisors 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 and correction of return and payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and charged with enforcing the provisions of this Ordinance and any rules and/or regulations promulgated pursuant hereto.

C. In the event the person to be assessed neglects or refuses to make a return, then in such case the Tax Administrator or his duly appointed deputies shall assess said person or persons on such an amount of whole or gross volume of business as the said Tax Administrator or his deputies deem reasonable and appropriate. In all cases of assessment, the Tax Administrator or his duly appointed deputies shall give the parties assessed a notice in which shall be stated the trade, business, occupation or class, and the amount of the Shamokin Township Business Privilege Tax imposed or levied.

D. The taxpayer shall maintain such records and books of account as will enable him to make a true and accurate return in accordance with the provisions of the Ordinance. Such accounts and records must disclose in detail the gross receipts and other data pertaining to the taxpayer's gross volume of business, and must be sufficiently complete to enable the Tax Administrator or his deputies to verify all transactions. For the purpose of ascertaining the correctness of any return or making a return where none has been filed, the Tax Administrator is hereby authorized and empowered to determine or redetermine the tax due by such person based upon the facts contained in the return or upon any information within his possession or that shall come into his possession, and for this purpose he or his representative or any duly authorized tax examiner of the Township of Shamokin is authorized, subject to the limitations of constitutional guarantees and restraints and consistent with legal process, to examine any books, papers and records of any such person in order to verify the accuracy of any return or payment made under the provision hereof, or to ascertain whether the taxes imposed by this Ordinance have been paid. The Tax Administrator is hereby authorized and directed to make and keep such records and prepare such forms as may be necessary or convenient to carry this Ordinance into effect and may, in his discretion, require reasonable deposits to be made by licensees who engage in a business, temporary, seasonal or itinerant by

its nature to secure payment of the tax imposed by this Ordinance to the Township of Shamokin.

E. Any person aggrieved by any decision of the Tax Administrator shall have the right to appeal to the Court of Common Pleas, as in other cases.

SECTION X - CONFIDENTIAL NATURE OF RETURNS, ETC.

Any information gained by the Tax Administrator or any other official agent or employee of the Township of Shamokin as a result of any returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential except in accordance with proper judicial order or as otherwise provided by law.

SECTION XI - SUIT ON COLLECTION AND PENALTY

A. The Tax Administrator or his duly appointed deputies shall have the power in the name of the Township of Shamokin to institute proceedings against any and all persons who violate the provisions of this Ordinance.

B. If for any reason the tax is not paid when due and suit is brought for the recovery of any such tax, the person liable therefore, shall, in addition, be liable for the costs of collection and interest and penalties herein imposed.

SECTION XII - SAVINGS AND SEVERABILITY CLAUSES

A. Nothing contained in this Ordinance shall be

construed to empower the Township of Shamokin to levy and collect the taxes hereby imposed on any person, or any business, or any portion of any business not within the taxing power of the Township of Shamokin under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.

B. If the tax, or any portion thereof, imposed upon any person under the provisions of this Ordinance shall be held by any court of competent power or jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania or any other provision of the law, the decisions of the court shall not affect or impair the right to impose the taxes, or the validity of the taxes so imposed upon other persons as herein provided.

C. The provisions of this Ordinance are severable, and if any of its provisions shall be held illegal, invalid, or unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this Ordinance. It is hereby declared to be the intention of the Board of Supervisors of the Township of Shamokin that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional provisions had not been included herein.

SECTION XIII - INCORPORATION OF RULES AND REGULATIONS

For the purpose of interpretation and implementation of this Ordinance, the rules and regulations promulgated under the

Business Privilege Tax Resolution of the Shamokin Area School District, enacted on the 29th day of June, 1979, are incorporated herein and made a part hereof as though said rules and regulations were set forth in their entirety.

SECTION XIV - EFFECTIVE DATE

This Ordinance, enacted pursuant to the Local Tax Enabling Act, 1965, December 31, Act No. 511 [53 Pa. C.S.A. §6901, et seq.], shall become effective July 1, 1982 and shall continue in effect thereafter unless amended or repealed. Inconsistent ordinances are hereby repealed.

ENACTED, ORDAINED AND PASSED by the Supervisors of the Township of Shamokin, Northumberland County, Pennsylvania, this day of , 1982.

ATTEST:

SHAMOKIN TOWNSHIP BOARD
OF SUPERVISORS

Secretary

BY:

Chairman

Member