

TOWNSHIP OF SOUTH MIDDLETON  
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 78-02

AN ORDINANCE IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON ALL INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN OCCUPATIONS WITHIN THE CORPORATE LIMITS OF THE TOWNSHIP OF SOUTH MIDDLETON AT THE RATE OF TEN DOLLARS (\$10.00) 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 SAME TO THE COLLECTOR: CONFERRING AND IMPOSING POWERS AND DUTIES OF ADMINISTRATION OF THE COLLECTOR: AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

IT IS HEREBY ENACTED AND ORDAINED by the Supervisors of the Township of South Middleton, Cumberland County, Pennsylvania, under the authority of the Act of December 31, 1965, P.L 1257, known as the "Local Tax Enabling Act", and its amendments, 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 South Middleton.

(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 South Middleton for which compensation is charged or received, whether by means of salary, wages, commission 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-employee person.

(d) Tax shall mean the occupational privilege tax at the rate fixed in Section 2 of this Ordinance.

(e) Collector shall mean the person, public employee or private agency designated by the Township of South Middleton to collect and administer the tax herein imposed.

(f) 1978 tax year shall mean the period from July 1 to December 31, 1978, inclusive. Each tax year thereafter shall mean January 1 to December 31, inclusive, of each succeeding year.

(g) Township of South Middleton shall mean the area within the corporate limits of the Township of South Middleton.

(h) He, his, or him shall mean and indicate the singular and plural number, as well as male, female and neuter gender.

## SECTION 2. LEVY

For general revenue purposes, beginning July 1, 1978, and from year to year thereafter, a tax is hereby levied and assessed upon the privilege of engaging in an occupation within the corporate limits of the Township of South Middleton during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of Ten Dollars (\$10.00) in accordance with the provision of this Ordinance. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township of South Middleton.

## SECTION 3. DUTY OF EMPLOYER

Each employer within the Township of South Middleton, as well as those employers situated outside the Township of South Middleton but who engage in business within the Township of South Middleton, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Township of South Middleton said tax and making a return and payment thereof to the collector. Further, each employer is hereby authorized to deduct this tax from each employee in his employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the Township of South Middleton.

## SECTION 4. RETURNS

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the collector. If an 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, except as provided hereafter in this section, the employer shall be responsible for the payment of the tax, in full, as though the tax had been originally levied against him. An employer shall be deemed to have complied with his duty of collection of this tax if he shall have collected a minimum of One Dollar (\$1.00) per week from the salary, wages or commissions of such employee subject to

this tax commencing with the pay period during which the employee first becomes liable for such tax and continuing each week thereafter until the tax is paid in full, or until such employee leaves the employment of the employer, whichever shall first occur.

#### SECTION 5. DATES FOR DETERMINING TAX LIABILITY AND PAYMENT

In each tax year, each employer shall use his employment records for the first quarter ending March 31, to determine the number of employees from whom such tax should be deducted and paid over to the collector on or before April 30 of such tax year. Employment records for succeeding quarters, ending June 30, September 30 and December 30, respectively, shall be used for the making of supplemental returns and payment over of the tax on or before July 31, October 31 of the said tax year, and January 31 of the succeeding year, respectively, for employees appearing on the employment records for the first time in the said tax year in the succeeding quarters. Returns and payments for the 1978 tax year shall be made on or before July 31, October 31 and January 31 of the succeeding year.

#### SECTION 6. SELF-EMPLOYED INDIVIDUALS

Each self-employed individual who performs services of any type or kind, engaged in any occupation or profession within the Township of South Middleton, shall be required to comply with this Ordinance and pay the tax to the collector on April 30 of the tax year, or as soon thereafter as he engages in an occupation. For 1978 tax year, payments shall be due on November 30, 1978.

#### SECTION 7. INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION

(a) Each individual who shall have more than one occupation within the Township of South Middleton 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 deductions on a form to be furnished to the employer by the collector, 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.

(b) In the event a person is engaged in more than one occupation, or an occupation which requires his working in more than one political subdivision during the calendar year, the priority of claim to collect such occupation 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 a person is employed and which imposes the tax nearest in miles to the person's home. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year. It is the intent of this provision that no person shall pay more than Ten Dollars (\$10.00) in any calendar year

as an occupational privilege tax, irrespective of the number of the political subdivisions within which such person may be employed within any given calendar year. In case of dispute, a tax receipt of a taxing authority for that calendar year declaring that the taxpayer has made prior payment shall constitute prima facie certification of payment to all other political subdivisions.

#### SECTION 8. EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS RESIDING BEYOND THE TOWNSHIP LIMITS OF THE TOWNSHIP OF SOUTH MIDDLETON

All employers and self-employed individuals residing or having their place of business outside of the Township of South Middleton but who perform services of any type or kind, or engage in any occupation or profession within the Township of South Middleton 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 of South Middleton. Further, any individual engaged in an occupation within the Township of South Middleton, and an employee of a nonresident employer, may, for the purpose of this Ordinance, be considered a self-employed person, and in the event his 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 9. ADMINISTRATION OF TAX

(a) It shall be the duty of the 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 collector is hereby charged with the administration and enforcement of this Ordinance, and is hereby charged and empowered, subject to Supervisors' approval, 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 payroll records of any employer subject to this Ordinance, the examination and correction of any return made in compliance with this Ordinance, and payment alleged or found to have occurred, or 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 collector shall have the right to appeal to the Court of Common Pleas of Cumberland County as in other cases provided.

(c) The 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 collector the means, facilities and opportunity for such examination

#### SECTION 10. 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 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 percent (6%) on the amount of said tax shall be due, beginning with the due date of said tax, and a penalty of five percent (5%) shall be added to the flat rate of said tax in addition to any interest. 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 11. PENALTY FOR VIOLATION

Whoever makes any false or untrue statement on any return required by this Ordinance, or who refuses inspection of the 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 be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than three hundred dollars (\$300) and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. Provided: the action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this Ordinance.

#### SECTION 12. 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 13. SAVING CLAUSE

(a) Nothing contained in this Ordinance shall be construed to empower the Township of South Middleton 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

TO BE ENACTED AND ORDAINED this 20th day of April, 1978.

TOWNSHIP OF SOUTH MIDDLETON

By Gerald R. Clepper

Lauren D. Metcalf

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ATTEST:

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