

ORDINANCE NO. 86-2

AN ORDINANCE IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON ALL INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN OCCUPATIONS WITHIN THE TOWNSHIP OF PENN, SNYDER COUNTY, PENNSYLVANIA, 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 THE SAME TO THE RECEIVER OF TAXES; CONFERRING AND IMPOSING POWERS AND DUTIES OF ADMINISTRATION ON THE RECEIVER OF TAXES; AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

The Board of Supervisors of the Township of Penn, Snyder County, Pennsylvania, under authority of The Local Tax Enabling Act of December 31, 1965 (P.L. 1257) and its amendments, enacts and ordains, 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 within the Township of Penn.

(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 Township of Penn for which compensation is charged or received whether by means of salary, wages, commissions or fees for services rendered or by means of profits from business conducted by a self-employed person, including but not limited to a farmer.

(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 Dollars (\$10.00) levied by this Ordinance.

(e) "Receiver of Taxes" shall mean the Secretary of the Township of Penn under whose direction this tax shall be enforced.

(f) "Township of Penn" shall mean the area within the township limits of the Township of Penn, Snyder County, Pennsylvania.

(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.** The Township of Penn hereby levies and imposes an occupational privilege tax on each individual engaged in an occupation within the Township of Penn for each calendar year within which such individual has earnings of at least \$1,000.00 from occupations within the Township of Penn during the effective term of this Ordinance. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township of Penn.

**SECTION 3. AMOUNT OF TAX.** Beginning with the effective date of this Ordinance, each individual engaged in an occupation within the Township of Penn during the effective term of this Ordinance shall pay an occupational privilege tax in the amount of Ten Dollars (\$10.00) per year, on a calendar year basis.

**SECTION 4. DUTY OF EMPLOYERS.** Each employer within the Township of Penn and each employer situated outside the Township of Penn who engages in business within the Township of Penn is hereby charged with the duty of collecting from each of his employees engaged by him and performing an occupation for him within the Township of Penn the said tax of Ten Dollars (\$10.00) per year and making a return and payment thereof to the Receiver of Taxes. 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 part or all of such occupation is performed within the Township of Penn.

**SECTION 5. RETURNS.** Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Receiver of Taxes, Township Building, R. D. 1, Selinsgrove, Pennsylvania. 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 percentum (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 employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him.

**SECTION 6. DATES FOR DETERMINING TAX LIABILITY AND PAYMENT.** Each employer shall file his return and make payment of the tax to the Receiver of Taxes on or before April 15, July 15, October 15 and January 15. For the year 1986 each employer shall use his employment records from the effective date of this Ordinance to September 30, and from October 1 to December 31, for determining the number of employees from whom said tax shall be deducted and paid over on or before October 15, 1986, and January 15, 1987, respectively. Beginning in

1987 and continuing each year thereafter, each employer shall use his employment records for the preceding calendar quarter for determining the number of employees from whom said tax shall be deducted and paid over on or before April 15, July 15, October 15, and January 15, respectively.

SECTION 7. INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION. Each individual who is engaged in more than one occupation within the Township of Penn 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 the deduction on a form to be furnished to the employer by the Receiver of Taxes, which form shall be evidence of the 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.

SECTION 8. SELF-EMPLOYED INDIVIDUALS. Each self-employed individual engaged in an occupation within the Township of Penn shall be required to comply with this Ordinance and pay the tax to the Receiver of Taxes on or before July 15, 1986, and on or before April 15 of each year thereafter, or as soon after April 15 of each year as he engages in an occupation within the Township of Penn.

SECTION 9. EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS RESIDING OUTSIDE THE TOWNSHIP OF PENN. All employers and self-employed individuals residing or having their place of business outside the Township of Penn but who themselves or whose employees engage in an occupation within the Township of Penn are by virtue thereof bound by and subject to the provisions, penalties and regulations promulgated under this Ordinance. Furthermore, any employee of a non-resident employer or any individual engaged in an occupation within the Township of Penn may, for the purpose of this Ordinance, be considered a self-employed person, and in the event this tax is not paid, the Township of Penn shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

SECTION 10. ADMINISTRATION OF TAX.

(a) It shall be the duty of the Receiver of Taxes 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 Receiver of Taxes is hereby charged with the administration and enforcement of this Ordinance and is hereby charged and empowered to adopt rules and regulations relating to any matter pertaining to the administration and enforcement of this Ordinance. Any person aggrieved by any decision of the

Receiver of Taxes shall have the right to appeal to the Court of Common Pleas of Snyder County as in other cases provided.

(c) The Receiver of Taxes 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 Receiver of Taxes the means, facilities and opportunity for such examination.

#### SECTION 11. 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 Receiver of Taxes 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 calculated beginning with the due date of said tax and a penalty of ten percent (10%) shall be added to the flat rate of said tax for non-payment 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 12. FINE AND PENALTY. 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, upon conviction before any Justice of the Peace or District Magistrate be sentenced to pay a fine of not more than One Hundred Dollars (\$100.00) for each offense and in default of payment of said fine be imprisoned in Snyder 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 refused to file a return required by this Ordinance.

SECTION 13. VALIDITY. The provisions of this Ordinance are severable and if any of its provisions shall be held invalid or unconstitutional, the decisions 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 provisions had not been included herein.

#### SECTION 14. SAVING CLAUSE.

(a) Nothing contained in this Ordinance shall be construed to empower the Township of Penn to levy and collect the tax hereby imposed on any

occupation not within the taxing power of the Township of Penn 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 (1) the right to impose said tax on other individuals and collect the same therefrom, or (2) the validity of the tax so imposed on other individuals, as herein provided.

SECTION 15. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after its enactment and remain in force until duly repealed.

SECTION 16. AUTHORIZATION. This Ordinance and the tax imposed hereby is adopted and enacted under and by virtue of the authority contained in The Local Tax Enabling Act of December 31, 1965 (P.L. 1257) as amended.

ENACTED AND ORDAINED this 17<sup>th</sup> day of June, 1986.

BOARD OF SUPERVISORS OF PENN TOWNSHIP

Attest:

June A. Ruward  
Secretary

Edward F. Burger  
Supervisor

Charles D. Ewig, Jr.  
Supervisor

James B. Wentzel II  
Supervisor