

Occupational Privilege Tax

BOROUGH OF BRIAR CREEK COLUMBIA COUNTY, PENNSYLVANIA

ORDINANCE NO. 143-2003

AN ORDINANCE OF THE BOROUGH OF BRIAR CREEK PROVIDING FOR THE IMPOSITION, FOR GENERAL REVENUE PURPOSES, OF AN OCCUPATIONAL PRIVILEGE TAX.

BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Briar Creek under the authority of the Local Tax Enabling Act, at 53 P.S. Section 6902, as amended, and it is hereby ordained by the authority of the same 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 Borough of Briar Creek who attains or is over the age of eighteen (18) years on the first day of January of the then current tax year.

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 Borough of Briar Creek 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 Receiver" shall mean the person designated by the Borough of Briar Creek for the collection of occupational privilege taxes.

E. "Tax on Occupational Privilege" or "Occupational Privilege Tax" shall mean a tax of Ten Dollars (\$10.00) per year levied on the privilege of engaging in any occupation as herein before defined, within the corporate limits of the Borough of Briar Creek during each calendar year.

SECTION 2 Levy

The Borough of Briar Creek hereby levies and imposes on each individual engaged in an occupation as herein defined from July 1, 2003, and during each and every calendar year thereafter, within the corporate limits of the Borough of Briar Creek, an Occupational Privilege Tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough of Briar Creek.

SECTION 3 Amount of Tax

Beginning with the first day of July, 2003, and in each fiscal year following, individuals engaged in occupation as hereinbefore defined within the Borough of Briar Creek shall be required to pay an Occupational Privilege Tax in the amount of Ten Dollars (\$10.00) per annum. Said tax receipts shall be shared with the Berwick Area School District as long as the District shall collect an Occupational Privilege Tax.

SECTION 4 Duty of Employers

Each employer within the Borough of Briar Creek, as well as each employer situated outside the Borough of Briar Creek, but who engages in business within the Borough of Briar Creek, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Borough of Briar Creek the said tax of Ten Dollars (\$10.00) per annum and making a return and payment thereof to the Tax Receiver. 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 services are performed within the Borough of Briar Creek.

SECTION 5 Returns

Each employer shall prepare and file a return showing compensation of the tax on forms to be supplied to him by the Borough of Briar Creek. 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 use his employment records from the first day of January to the 31st day of March of each calendar year for determining the number of employees from whom said tax shall be deducted and paid over to the Tax Receiver on or before April 30 of each such year. Supplemental reports shall be made by each employer on or before July 31 and October 31 of said year and January 31 of the next succeeding year, of new employees reflected on his employment records from April 1 to June 30, from July 1 to September 30, and from October 1 to December 31, respectively.

Payments on these supplemental reports shall be made on or before July 31 and October 31 of said year and January 31 of the next succeeding year, respectively.

SECTION 7 Individuals Engaged in More Than One Occupation

Each individual who shall have more than one occupation within the Borough of Briar Creek 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 tax receiver, which form shall be evidence of deduction having been made when presented to any other employer and 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

All self-employed individuals who perform services of any *type or* kind or engage in any occupation or profession within the Borough of Briar Creek shall be required to comply with this Ordinance and pay the tax to the Tax Receiver on or before April 30 of each fiscal year, or thereafter in accordance with the payment schedule specified in Section 6, above, in the event that said individual becomes subject to the Ordinance after March 31 of any fiscal year. All transients shall pay the Occupational Privilege Tax before engaging in any occupation or profession with the Borough of Briar Creek.

SECTION 9 Employers and Self-Employed Individuals Residing Beyond the Corporate Limits of the Borough of Briar Creek

All employers and self-employed individuals residing or having their places of business outside of the Borough of Briar Creek but who perform services of any type or kind or engage in any occupation or profession within the Borough of Briar Creek 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 Borough of Briar Creek. Further, any individual engaged in an occupation within the Borough of Briar Creek and an 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 Borough 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 Tax Receiver 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 Tax Receiver is hereby charged with the administration and enforcement of this ordinance and is hereby charged and empowered to prescribe, adopt, promulgate rules and regulation 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 Tax Receiver shall have the right to appeal to the Court of Common Pleas of the 26th Judicial District, Columbia County Branch, as in other cases provided.

C. The 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 an employer, or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Tax Receiver 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 date above set forth, the Tax Receiver 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 a rate of six (6) percent on the amount of said tax shall be calculated beginning with the due date of said tax and a penalty of five (5) percent 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 therefore 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 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 and pay the tax as required by the Ordinance shall, upon conviction thereof in an appropriate Judicial proceeding, be sentenced to pay a fine of not more than Six Hundred Dollars (\$600.00) for each offense plus costs of prosecution, or, in default of payment of such fines and costs, to undergo imprisonment for a period not exceeding thirty (30) days for each offense. Provided that each violation of any provision of this Ordinance shall be deemed a separate 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, such holding 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 14 Saving Clause

A. Nothing contained in this Ordinance shall be construed to empower the Borough of Briar Creek to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Borough under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

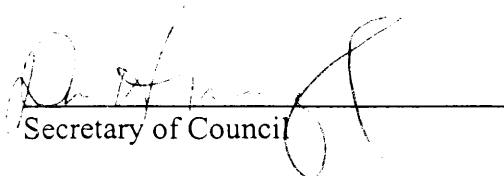
B. If the tax hereby imposed under the provisions of this Ordinance shall be held by any Court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania, as to any individual, the decision of the court shall not affect or 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 15 Effective Date

The Ordinance shall be in full force and effect commencing July 1, 2003, and shall remain in full force and effect perpetually, during each calendar year thereafter.

PASSED AND ENACTED as an Ordinance of the Borough of Briar Creek at a regular meeting of Council held the 4th day of June 2003.

ATTEST:
BOROUGH OF BRIAR CREEK


Secretary of Council


President of Council

APPROVED this 4th day of June 2003