

ORDINANCE NO. 1076

AN ORDINANCE IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON OCCUPATIONS ENGAGED IN BY INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN SAID OCCUPATION WITHIN THE CORPORATE LIMITS OF THE BOROUGH OF DONORA 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 BOROUGH TAX COLLECTOR; CONFERRING AND IMPOSING POWERS AND DUTIES OF ADMINISTRATION ON THE BOROUGH TAX COLLECTOR; IMPOSING PENALTIES FOR THE VIOLATION THEREOF; AND EXEMPTING FROM SAID TAX INDIVIDUALS EARNING LESS THAN \$1,000.00 GROSS COMPENSATION FOR THE YEAR FROM COMBINED OCCUPATIONS.

BE IT ORDAINED AND ENACTED by the Council of the Borough of Donora, under the authority of Act 511, The Local Tax Enabling Act of 1965, 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 Donora.

(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 Donora 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 self-employed persons.

(d) "TAX" shall mean the Occupation Privilege Tax in the amount of Ten Dollars (\$10.00) levied by this ordinance.

(e) "BOROUGH OF DONORA" shall mean the area within the corporate limits of the Borough of Donora.

(f) "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 Borough of Donora hereby levies and imposes on each occupation engaged in by individuals within the corporate limits during the fiscal year an Occupation Privilege Tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough of Donora.

SECTION 3. Amount of Tax. Beginning with the effective date of this ordinance, each occupation, as hereinbefore defined, engaged; in within the corporate limits of the Borough of Donora shall be subject to an Occupation Privilege Tax in the amount of Ten Dollars (\$10.00) per annum, said tax to be paid by the individual so engaged.

SECTION 4. Duty of Employers. Each employer within the Borough of Donora as well as those employers situated outside the Borough of Donora, but who engage in business within the Borough of Donora, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Borough of Donora the said tax of Ten Dollars (\$10.00) per annum and making a return and payments thereof to the Borough 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, commission and whether or not part or all of such services are performed within the Borough of Donora.

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 Borough Tax Collector

SECTION 6. Dates for Determining Tax Liability and Payments.

Each employer shall use his employment records from the effective date of this ordinance to the 15th day of March, of the current year, for determining the number of employees from whom said tax shall be deducted and paid over to the Borough Tax Collector on or before April 15th of the current year. Supplemental reports shall be made by each employer on June 15th, of the current year, September 15th, of the current year, and December 15th, of the current year. Payments on these supplemental reports shall be made on or before July 15th, of the current year, October 15th, of the current year, and January 15th, of the 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 Donora 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 Tax Collector, which forms 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 employees 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, engage in any occupation or profession within the Borough of Donora shall be required to comply with this Ordinance and pay the tax to the Borough Tax Collector <sup>or before</sup> on/June 15th, of the current year, or as soon thereafter as he engages in an occupation.

SECTION 9. Employers and Self-Employed Individuals Residing Beyond the Corporate Limits of the Borough of Donora. All employers and self-employed individuals residing or having their place of business outside of the Borough of Donora, but who perform services of any type of kind, or engage in any occupation or profession within the Borough of Donora, do by

virtue thereof agree to be bound by the 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 Donora. Further, any individual engaged in any occupation within the Borough of Donora and as 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 Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

SECTION 10. Exemption. All individuals earning less than \$1,000.00 gross compensation for the year from their combined occupations are exempted from the occupational privilege tax. Individuals claiming said exemption must satisfactorily prove to the Borough Tax Collector that their combined earnings would not yield at least \$1,000.00 gross compensation for the year. Said individuals, who claim said exemption, must within 15 days after the end of the year or within 15 days after discovery that their gross compensation from combined occupations is greater than \$1,000.00 for said year pay the tax to the said Borough Tax Collector. If the individual after paying the tax learns that his gross compensation was less than \$1,000.00 for said year, he may within five (5) months after the end of the year, submit satisfactory proof thereof, and make application for a refund.

SECTION 11. Administration of Tax.

(a) It shall be the duty of the Borough 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 Borough 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 payments 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 Borough Tax Collector shall have the right to appeal to the Court of Common Pleas of Washington County as in other cases provided.

(c) The Borough 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 Borough Tax Collector the means, facilities and opportunity for such examinations.

#### 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 Borough 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 therefore shall, in addition, be responsible and liable for the costs of collection.

#### SECTION 13. Fine and Penalty. Whoever makes any false or

untrue statements 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 Justice of the Peace, 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 the Washington County Jail 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 Borough of Donora 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 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 on January 1, 1968.

SECTION 17. This re-enactment is pursuant to Act No. 160 of October 9, 1967, entitled "An Act Amending the Act of December 31, 1965, (P. L. 1257) entitled, "The Local Tax Enabling Act," removing the requirements relating to annual re-enactment; and this tax shall therefore, be a continuing tax from year to year without further re-enactment unless the rate of the tax is subsequently changed.

ORDAINED AND ENACTED INTO AN ORDINANCE THIS 28<sup>th</sup> day of November, A. D. 1967.

Anthony G. Massarra  
President of Council

ATTEST:

James E. Petrus  
Borough Secretary

EXAMINED AND APPROVED by me this 28<sup>th</sup> day of November, A. D. 1967.

Alfred P. DeSantis  
Mayor

ATTEST:

James E. Petrus  
Borough Secretary