

Chapter 260. Taxation

Article X. Business Privilege Tax

[Adopted 12-29-2003 by Ord. No. 1128]

§ 260-77. Definitions.

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

BOROUGH

The Borough of West Mifflin.

BUSINESS

- A. Carrying on or exercising, whether for gain or profit or otherwise, within the Borough of West Mifflin any trade, business, including but not limited to financial business, as herein defined, profession, vocation, service, construction, communication or commercial activity, or the making of sales or rendering services from or attributable to an office or place of business in the Borough of West Mifflin.
- B. Any corporation organized under the business corporation law of any state or commonwealth or any foreign country.
- C. "Business" shall not include any business that is subject to the Borough of West Mifflin mercantile or admissions taxes to the extent that its activities are subject to said taxes, the business of the United States of America, Commonwealth of Pennsylvania or any political subdivision, municipal authority or any of said entities, bureaus, departments, agents, servants or employees or contractive services, or any employment for a wage or salary.
- D. "Financial business" includes the services and transactions of banks and bankers, trusts, credit and investment companies, where not prohibited by law, holding companies, dealers and brokers in money, credits, commercial paper, bonds, notes, securities and stocks, monetary metals, factors and commission merchants.
- E. "Business" does not include any business with respect to which the power to tax by the Borough of West Mifflin is withheld by law.

GROSS REVENUE or GROSS RECEIPTS

The total money received by a person during a tax year that is generated solely from a transaction of business within the Borough of West Mifflin, and the total money received by a business that has a building or leasehold of realty located within the Borough of West Mifflin.

PERSON

Any entity, foundation, individual, partnership, limited partnership, unincorporated association or corporation engaged in business, for profit or otherwise, within the Borough of West Mifflin, Allegheny County, Pennsylvania. Whenever used in any section prescribing and 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. The term "person," as defined above, shall not include nonprofit corporations or associations organized solely for religious, charitable or educational purposes, agencies of the government of the United States or of the Commonwealth of Pennsylvania, or any person to the extent of his vending or disposing of articles of his own manufacture. The word "person," as used in this article, is synonymous with the word "taxpayer."

TAX COLLECTOR

The person, firm or corporation or Borough employee appointed by Council of the Borough of West Mifflin to administer the provisions of this article.

TAX YEAR(S)

For the tax year 2004, beginning on the 31st day following the enactment of this article and ending at 12:00 midnight on December 31, 2004, and continuing thereafter for the tax year beginning January 1, 2005, and ending at 12:00 midnight on December 31, 2005, and thereafter continuing from calendar tax year to calendar tax year for each succeeding twelve-month period.

TEMPORARY, SEASONAL, OR ITINERANT BUSINESS

Any business that is conducted at one location for less than 60 consecutive calendar days.

§ 260-78. Imposition and rate of tax.

Every person engaging in any business in the Borough of West Mifflin during a tax year shall pay a tax at the rate of \$500 per tax year for the privilege of carrying on or exercising business for gain or profit or otherwise within the Borough of West Mifflin.

§ 260-79. Registration; estimated revenue; returns and payments.

A. Registration.

- (1) Every person subject to the tax imposed by this article shall forthwith register with the Tax Collector and set forth his name, address, business address and the nature of the business activity in which he is engaged, and such other information as may be necessary by the Borough of West Mifflin or its designated Collector to administer this article.
- (2) Every person subject to the tax imposed hereby who commences business after the effective date of this article shall, within seven days of the commencement of such business, register with the Tax Collector.
- (3) Registration shall be upon a form furnished by the Tax Collector.

B. Estimated gross revenue or gross receipts.

- (1) Any person who transacted business in the Borough of West Mifflin and who had gross revenue or gross receipts in excess of \$30,000 during the previous calendar year must estimate his gross revenue or gross receipts to be in excess of \$30,000 for the current tax year and file a return and pay the tax.
- (2) Persons who are engaging in business in the Borough of West Mifflin for the first time shall have its estimate of gross revenue or gross receipts based on reasonable business standards that shall include but not be limited to the following:
 - (a) The amount of capital investment or lease rental cost, and a reasonable return on said investment.
 - (b) The amount of gross receipts or gross revenue received annually by the person in similar business transactions elsewhere.
 - (c) The contract consideration.

- (d) The gross revenue or gross receipts projected by said business to be generated in the business transacted within the Borough of West Mifflin.
 - (e) The reasonable expectations of the business.
- (3) Any person who grossly underestimates the business gross revenue or gross receipts by more than \$20,000 in order to avoid filing a timely return and remitting a timely payment of tax constitutes a violation of this article.
- C. Returns and payments for tax year 2004 and for first-year businesses in the Borough of West Mifflin:
- (1) For the tax year commencing 31 days after the date of enactment of this article and ending December 31, 2004, and for first-year businesses to the Borough, any person who engages in business in the Borough of West Mifflin and who estimates that the business shall have gross revenue or gross receipts in excess of \$30,000 for the tax year shall make and file returns with the Tax Collector, on forms prescribed by the same, and shall accompany such return with the payment of the five-hundred-dollar tax required as follows:
 - (a) For persons who have engaged in business and transacted business within the Borough of West Mifflin during the first quarter of the tax year, by March 31 of the tax year.
 - (b) For persons who initially engage in business and commence transacting business within the second quarter of the tax year, by June 30.
 - (c) For persons who have initially engaged in and commenced transacting business in the Borough of West Mifflin during the third quarter of the tax year, by September 30 of the tax year.
 - (d) For persons who have engaged in and commenced transacting business within the Borough of West Mifflin during the fourth quarter, by December 31 of the tax year.
 - (2) Every person subject to the payment of the tax proposed by this article who engages in a business that is temporary, seasonal or itinerant by its nature shall, within seven days from the date he commences such business, file a return with the Tax Collector setting forth his name, his business, his business address, date of commencing the business and such other information as may be necessary as determined by the Tax Collector or the Borough of West Mifflin, together with payment of the five-hundred-dollar tax due.
- D. Returns and payments for tax year 2005 and subsequent tax years:
- (1) All persons who had gross revenue or gross receipts in excess of \$30,000 during the preceding calendar year or who estimate gross revenue or gross receipts in excess of \$30,000 for the current tax year are subject to the within tax and shall make and file returns with the Tax Collector, on forms prescribed by the same, and shall accompany such returns with the payment of the tax required as follows:
 - (a) By March 31 for persons who are or have engaged in business during the first quarter of the tax year.
 - (b) By June 30 for the second quarter for persons who are or have initially engaged in business during the second quarter of the tax year.
 - (c) By September 30 for the third quarter for persons who are or have initially engaged in business during the third quarter of the tax year.
 - (d) By December 31 for the fourth quarter for persons who are or have initially engaged in business during the fourth quarter of the tax year.
 - (2) Every person subject to the payment of tax proposed by this article who engages in business temporarily, seasonal or itinerant by its nature, shall, within seven days from the date he commences such business, file a return with the Tax Collector setting forth his name, his

business, his business address, date of commencing the business and such other information as may be necessary and determined by the Tax Collector or the Borough of West Mifflin, together with payment of the amount of tax due.

§ 260-80. Credits against tax.

- A. Commencing with the tax year January 1, 2005, and ending at 12:00 midnight on December 31, 2005, and thereafter continuing from calendar tax year to calendar tax year for each succeeding twelve-month period, a credit shall be allowed against the business privilege tax as follows:
- (1) For the person who has engaged in business for the previous tax year and had gross revenue or gross receipts of \$30,000 or less from the business transacted in the Borough of West Mifflin for the past tax years, a five-hundred-dollar credit.
 - (2) For the person who has engaged in business during the previous tax year and whose business transactions had gross revenue or gross receipts within the Borough of West Mifflin between \$30,001 and \$40,000 for the tax year and had paid the Borough business privilege tax for the preceding year, a tax credit of \$260.
 - (3) For the person who, during the previous tax year, had engaged in business within the Borough of West Mifflin and had gross revenue or gross receipts between \$40,001 and \$50,000 for the preceding tax year and who paid the Borough business privilege tax for the preceding tax years, a two-hundred-dollar tax credit.
 - (4) For those persons who had engaged in a business within the Borough of West Mifflin during the previous tax year and whose transactions had gross revenue between \$50,001 and \$60,000 for the preceding tax year and who paid the Borough business privilege tax for the preceding tax years, a one-hundred-forty-dollar tax credit.
 - (5) For those persons who have engaged in business within the Borough of West Mifflin during the previous tax year and whose transactions grossed within the Borough of West Mifflin are between \$60,001 and \$70,000 for the preceding tax year and who paid the Borough business privilege tax for the preceding tax years, an eighty-dollar tax credit.
 - (6) For those persons who have engaged in business within the Borough of West Mifflin during the past tax year and whose transactions had a gross revenue or gross receipts within the Borough of West Mifflin between \$70,001 and \$80,000 for the preceding tax year and who paid the Borough business privilege tax for the preceding tax years, a twenty-dollar tax credit.
 - (7) Any business who has transacted business within the Borough of West Mifflin during the past tax year and who has gross revenues of \$80,001 or more from the business transactions in the Borough of West Mifflin is not entitled to any tax credits.
- B. No tax credit shall be allowed for the initial tax year of 2004 or for any person who commences business in the Borough for the first time and has not paid the Borough business privilege tax during the prior tax year. Any person who engages in business and who underestimated the business gross revenues or gross receipts for any tax year shall file and pay the five-hundred-dollar business privilege tax on the next successive quarter due date when said gross revenue or gross receipts exceed \$30,000.
- C. Once the business privilege tax is due, the entire tax is due and payable, and refunds for any portion of the tax shall not be made, regardless of whether the person ceases engaging in business during the tax year or fails to meet his estimated income for the tax year.

§ 260-81. Tax Collector.

- A. It shall be the duty of the Tax Collector to collect and receive the taxes, fines and penalties imposed by this article. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipts.
- B. The Tax Collector is hereby charged with the administration and enforcement of the provisions of this article and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the reexamination and correction of returns and the payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred and to make refunds where necessary. Any person aggrieved by any decision of the Tax Collector shall have the right to appeal within 60 days to the Borough of West Mifflin Board of Local Tax Appeals, c/o Borough Manager, 3000 Lebanon Church Road, West Mifflin, Pennsylvania 15122. Any person aggrieved by any decision of the Board of Local Tax Appeals shall have the right of appeal to the Court of Common Pleas of Allegheny County, Pennsylvania, as in other cases provided.
- C. The Tax Collector is hereby authorized to compel any documents he deems necessary to be attached to the tax return, including the prior year's tax return and/or Schedule C. The Tax Collector is authorized to compel any person who has engaged in business during the tax year to file a tax return even if no taxes are due or that the taxpayer claims that the revenue generated in the transaction in the Borough of West Mifflin was \$30,000 or less.
- D. The Tax Collector is hereby authorized to compel the production of any books, papers and records and attendance of all persons before him, whether as parties or witnesses, whom the Tax Collector believes to have knowledge of the commencement of such business within the Borough of West Mifflin.

§ 260-82. Suit for collection; interest and penalties.

- A. The Borough, its designated Tax Collector, or Solicitor may sue for the recovery of taxes due and unpaid under this article.
- B. If for any reason the tax is not paid when due in each year, interest at the rate of 10% per annum and an additional penalty of 1/2 of 1% of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor, in addition to the taxes, interest and penalty, shall be liable for the costs of collection, court costs, including reasonable attorneys' fees established at \$125 per hour, together with the interest and penalties imposed.

§ 260-83. Violations and penalties.

Whoever makes any false or untrue statements on his return or who refuses to permit inspection of the books, accounts or records of any business in his custody or control when requested for inspection by any agent designated by the Borough of West Mifflin, the Solicitor of the Borough of West Mifflin or the Tax Collector of the Borough of West Mifflin and whoever fails and refuses to file a return and to pay the tax levied hereunder shall, upon conviction before any Magisterial District Judge, be sentenced to pay a fine of not more than \$300 for each offense.

§ 260-84. Construal of provisions; severability.

- A. Nothing contained in this article shall be construed to empower the Borough of West Mifflin 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 Borough of West Mifflin under the Constitution or laws of the United States and the Constitution or laws of the Commonwealth of Pennsylvania.

- B. If the tax, or any portion thereof, imposed upon any person under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution or laws of the United States and the Constitution or laws of the Commonwealth of Pennsylvania, the decision 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. If the final decision of the court of competent jurisdiction holds any provision of this article or the application of any provision to any circumstances to be illegal or unconstitutional, the other provisions of this article or the application of such provisions to other circumstances shall remain in full force and effect. The intention of the Council of the Borough of West Mifflin is that the provisions of this article shall be severable, and that this article would have been adopted if any such illegal or unconstitutional provisions had not been included.

§ 260-85. Payment under protest; overpayment.

The Tax Collector is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Borough of West Mifflin in any case where the taxpayer disputes the validity of the amount or the validity of the Borough of West Mifflin's claim for this tax. If it is thereafter judicially determined by a court of competent jurisdiction that the Borough of West Mifflin has been overpaid, the amount of the overpayment shall be refunded to the taxpayer.

§ 260-86. Effective date.

The provisions in this article shall become effective 31 days from the date of enactment and shall remain in effect through the calendar year through December 31, 2004, and from January 2005 through December 31, 2005, and thereafter from year to year on a calendar-tax-year basis from January 1 through December 31.