

ARTICLE III  
**Business Privilege Tax**  
**[Adopted 12-26-1979 as Ord. No. 79-31 (Ch. 122, Part 5, of the 1974 Code)]**

**§ 260-39. Title.**

This article shall be known and may be cited as the "Radnor Business Privilege Tax Ordinance."

**§ 260-40. Definitions and word usage.**

- A. The masculine includes the feminine, the singular includes the plural, and the plural includes the singular.
- B. The following words and phrases, as used in this article, shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

BUSINESS, TRADES, OCCUPATIONS and PROFESSIONS — All businesses, trades, occupations and professions in which there is offered any service or services to the general public or a limited number thereof, including but not limited to financial business and those enterprises engaged in by hotel operators; motel operators; office and/or residential apartment building operators; parking lot and garage operators; warehouse operators; lessors of tangible personal property; physicians and surgeons; osteopaths; podiatrists; chiropractors; veterinarians; optometrists; pharmacists; lawyers; dentists; engineers; architects; chemists; certified public accountants; public accountants; funeral directors; promoters; agents; brokers; manufacturer's representatives; advertising and public relations agencies; real estate brokers; insurance brokers and agents; cable television operators; operators of places of amusement providing either passive or active recreation; vending machine operators; barbershop operators and beauty shop operators; cleaning, pressing and dyeing establishment operators; laundry operators; shoe repair shop operators; tailors; upholsterers; electrical, plastering, bricklaying, carpentry, heat, ventilating, plumbing and painting contractors engaged in building or other construction of any kind or in the alteration, maintenance or repair thereof; and repairers of electrical, electronic and automotive machinery and equipment or other machinery and equipment and other wares and merchandise.

DIRECTOR — The Finance Director of the Township of Radnor or his duly authorized representative.

FINANCIAL BUSINESS — The services and transactions of banks and bankers; trust, credit and investment companies; holding companies; dealers and brokers in money, credits, commercial paper, bonds, notes, securities and stocks and monetary metals; and factors and commission merchants.

GROSS RECEIPTS —

- (1) Includes the gross amount of cash, credits or property of any kind or nature received in both cash and credit transactions allocable or attributable to the Township by reason of any sale made (including resales of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares and merchandise), service rendered (including labor and any materials employed in or becoming part of the service) or commercial or business transactions in connection with any business, trade, occupation or profession.
- (2) Gross receipts shall not include:
  - (a) The first \$25,000 received.
  - (b) In the case of a sale of goods, the receipts from a sale in which the goods are delivered from a place of business regularly maintained outside the Township by the taxpayer to a place of business regularly maintained outside the Township by the purchaser, provided that such delivery is not made for the purpose of evading this tax.
  - (c) In the case of any service, the receipts from the performance or rendering of any service no part of which was performed or rendered within the Township.
  - (d) The amount of any allowance made for goods, wares and merchandise taken by a dealer as a trade-in or as part payment for other goods, wares and merchandise in the usual and ordinary course of his business.
  - (e) In the case of a financial business, the cost of securities and other property sold, exchanged, paid at maturity or redeemed and moneys or credits received in repayment of advances, credits and loans (not to exceed the principal amount of such advances, credits and loans) and deposits.
  - (f) In the case of a broker, any portion of the fees or commissions with respect to any transaction paid by him to another broker on account of a purchase or sale

contract initiated by or exercised or cleared in conjunction with such other broker.

- (g) Receipts by a dealer from sales to other dealers in the same line where the dealer transfers title or possession at the same price for which he acquired the goods, wares and merchandise, provided that such other dealers are not the parent or subsidiary of the vendor dealer or have no other affiliation or cooperative arrangement with the vendor dealer.

OPERATOR — Includes both the owner of a hotel, motel, office and/or residential apartment building, parking lot, garage or warehouse and any person the owner may engage for hire to supervise the operation of such hotel, motel, apartment building, parking lot, garage or warehouse.

PERSON — Any individual, partnership, limited partnership, association, corporation, trust or other legally recognizable entity, except such as are wholly exempt from taxation under the Act of December 31, 1965, P.L. 1257, as amended.<sup>1</sup> Persons exempted from taxation under this article shall include agencies of the Government of the United States or of the Commonwealth of Pennsylvania or political subdivisions thereof and nonprofit corporations or associations organized solely and exclusively for religious, educational or charitable purposes and not conducting any regular or established business competing commercially with any person subject to the tax imposed by this article.

SERVICE — Any act or instance of helping or benefiting another for a consideration.

TAX YEAR — The twelve-month period beginning the first day of January.

TEMPORARY, SEASONAL OR ITINERANT BUSINESS, TRADE, OCCUPATION OR PROFESSION — Any business, trade, occupation or profession that is conducted at one location for less than 60 consecutive calendar days.

TOWNSHIP — The Township of Radnor.

**§ 260-41. Registration. [Amended 9-10-2012 by Ord. No. 2012-14]**

- A. For the tax year beginning January 1, 1980, and for each tax year thereafter, every person desiring to continue to engage in or

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1. Editor's Note: See 53 P.S. § 6901 et seq.

hereafter to begin to engage in a business, trade, occupation or profession at an actual place of business in the Township shall make application for registration for each place of business in the Township, and if such person has no actual place of business within the Township, then one registration, with the Director.

- B. Original registration shall be made by the completion of an application furnished by the Director and the payment of a fee of \$10 for each place of business. Each subsequent annual application for registration shall occur with the filing of the taxpayer's business privilege tax return and accompanied with the payment of a fee of \$10 for each place of business. Each applicant shall receive a certificate of registration from the Director, which shall not be assignable. In the case of loss, defacement or destruction of any certificate, the person to whom the certificate was issued shall apply to the Director for a new certificate for which a fee of \$10 shall be charged. Such certificate shall be conspicuously posted at each place of business within the Township at all times.

**§ 260-42. Imposition of tax; rate. [Amended 12-9-1985 by Ord. No. 85-36]**

Every person engaging in a business, trade, occupation or profession in the Township shall pay an annual business privilege tax for the year beginning January 1, 1986, and for each tax year thereafter at the rate of three mills on such person's gross receipts.

**§ 260-43. Exemption; joint return.**

All persons required to pay a business privilege tax under the provisions of this article shall be exempted from paying such tax upon the same subject matter of taxation upon which such persons are required to pay a mercantile license tax under Article II, Mercantile Tax. Any person required to pay both a business privilege tax and a mercantile license tax need pay only one license fee of \$10 for each place of business.

**§ 260-44. Computation of tax.**

Computation of estimated and actual gross receipts shall be made in the following manner:

- A. The estimated gross receipts for any tax year of any person subject to the payment of the tax hereby imposed who has commenced business at least a full year prior to January 1 of that

tax year shall be the actual gross receipts of that person during the 12 months preceding such January 1.

- B. The estimated gross receipts for any tax year of any person subject to the payment of the tax hereby imposed who has commenced business less than one full year prior to January 1 of that tax year shall be computed by multiplying by 12 the monthly average of such person's actual gross receipts during the months while engaged in business prior to such January 1.
- C. The estimated gross receipts for any tax year of any person subject to the payment of the tax hereby imposed who commences business subsequent to January 1 of that tax year shall be computed for that tax year by multiplying such person's actual gross receipts for the first month of business by the number of months remaining in the tax year.
- D. Every person subject to the payment of the tax hereby imposed who engages in business which is temporary, seasonal or itinerant by its nature shall compute gross receipts upon such person's actual gross receipts during the tax year.

**§ 260-45. Taxpayer returns.**

- A. Form for return. Every return as hereinafter required by this article shall be made upon a form furnished by the Director and in accordance with such regulations as may hereafter be issued by the Director, pursuant to § 260-53 hereof. Every person making such return shall certify the correctness thereof under the penalties of perjury.
- B. First return.
  - (1) Every person subject to the tax imposed by this article who has commenced business at least one full year prior to the beginning of the tax year shall, on or before the 15th day of May following, file with the Director a return setting forth such person's name, business and business address and such other information as may be necessary to compute the actual gross receipts of such person during the preceding year and the amount of tax estimated to be due.
  - (2) Every person subject to the tax imposed by this article who has commenced business less than one full year prior to the beginning of the tax year shall, on or before the 15th day of May following, file with the Director a return setting forth such person's name, business and business address and such

other information as may be necessary to compute the actual gross receipts of such person during the preceding year and the amount of tax estimated to be due.

- (3) Every person subject to the tax imposed by this article who commences business subsequent to the beginning of the tax year shall, within 40 days from the date of commencing such business, file with the Director a return setting forth such person's name, business and business address and such other information as may be necessary to compute the actual gross receipts of such person during the first month of business and the amount of tax estimated to be due.
  - (4) Every person subject to the payment of the tax imposed by this article who engages in a business which is temporary, seasonal or itinerant by its nature shall, within seven days from the date of completion of such business, file with the Director a return setting forth such person's name, business and business address and such information as may be necessary in arriving at the actual gross receipts of such person during such period and the amount of the tax due.
- C. Final return. At the end of the tax year and on or before May 15 of the following year, every person subject to the tax hereby imposed shall make a final return to the Director of the actual gross receipts of the tax payer during the period for which the taxpayer is subject to the tax. Such final return shall state the amount of the gross receipts as set forth in the first return, the amount of tax paid at the time of filing the first return and the amount of tax due upon final computation.

#### **§ 260-46. Payment of tax.**

- A. Estimated tax. At the time of filing the first return, the person making the same shall pay the amount of the tax estimated to be due, as determined pursuant to §§ 260-42, 260-44 and 260-45 of this article.
- B. Balance due. At the time of filing the final return, if the full amount of tax due by the taxpayer for the tax year has not been paid, the taxpayer shall pay the remaining balance of the tax, which shall be the difference between the amount of the tax paid at the time of making the first return on the estimated computation and the amount of the tax finally shown to be due.

**§ 260-47. Collection of tax; record.**

It shall be the duty of the Director to collect and receive the taxes, fines and penalties imposed by this article. It shall also be the duty of the Director to keep a record showing the amount of the tax received and the date of payment. A receipt shall be given to the person paying the tax.

**§ 260-48. Determination of tax; examination of return.**

If the Director is not satisfied with the return and payment of tax made by any taxpayer or supposed taxpayer under the provisions of this article, the Director is hereby authorized and empowered to make a determination of the tax due by such person based upon the facts contained in the return or upon any information within the Director's possession or that shall come into his possession, and for this purpose the Director or the deputy or authorized agent of the Director is authorized to examine the books, papers and records of any such person to verify the accuracy of any return or payment made under the provisions hereof or to ascertain whether the taxes imposed by this article have been paid. The Director is hereby authorized and directed to make and keep such records, prepare such forms and take such other measures as may be necessary or convenient to carry this article into effect and may, in his discretion, require reasonable deposits to be made by persons who engage in a business which is temporary, seasonal or itinerant by its nature.

**§ 260-49. Estimation of tax.**

If any taxpayer or supposed taxpayer shall neglect or refuse to make any return and payment of tax required by this article or if, as a result of an investigation by the Director, a return is found to be incorrect, the Director shall have the power to estimate the tax due by such person and determine the amount due for taxes, penalties and interest thereon.

**§ 260-50. Responsibility for claiming exemption.**

The burden is hereby imposed upon any person claiming an exemption from the payment of the tax hereby imposed to prove by clear and convincing evidence his legal right to such exemption.

**§ 260-51. Refunds.**

If the final return of the taxpayer shows an overpayment of the tax by reason of the fact that the gross receipts as stated in the estimated computation were more than the actual gross receipts of the taxpayer

for the year or by reason of the fact that the taxpayer did not continue to engage in business throughout the year, the Director shall refund to the taxpayer the amount of such overpayment, which shall be the difference between the amount of tax paid upon the filing of the first return and the amount of the tax finally shown to be due.

**§ 260-52. Confidential nature of returns.**

Any information contained on the returns of a taxpayer and any information obtained as a result of the examination of the books and records of the taxpayer shall be confidential, except for official purposes and except for purposes of judicial order.

**§ 260-53. Additional rules and regulations.**

The Director is hereby authorized to make rules and regulations consistent with the provisions of this article relating to the interpretation or application of any section of this article or to any matter affecting the administration and enforcement of this article, including provision for the reexamination and correction of returns and the adjustment or refund of any overpayment of tax.

**§ 260-54. Method of recovery.**

All taxes due and unpaid under this article shall be recoverable by the Township Solicitor as other debts due the Township are now or may hereafter be by law recoverable.

**§ 260-55. Interest and penalty. [Amended 5-27-1980 by Ord. No. 80-08]**

All taxes due under this article shall bear interest at the rate of 1% per month or fractional part of a month from the day they are due and payable until paid. If any taxpayer shall neglect or refuse to make any return or payment as herein required, an additional 10% of the amount of the tax shall be added by the Director and collected.

**§ 260-56. Payment of receipts into treasury.**

All taxes, interest and penalties received, collected or recovered under the provisions of this article shall be paid into the treasury of the Township for the use and benefit of the Township.

**§ 260-57. Limitations.**

Nothing contained in this article shall be construed to empower the Township or levy and collect the taxes hereby imposed on any person

or any business, trade, occupation or profession or any portion of any business, trade, occupation or profession not within the taxing power of the Township under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.

**§ 260-58. Intent.**

- A. It is not the intention of the Board of Commissioners, in adopting this article, to impose nor should any portion of this article be construed to mean that the Board of Commissioners has imposed, by adopting this article, a room tax on hotels or motels in the Township of Radnor or any other tax which is an invalid duplication of any tax imposed by the Commonwealth of Pennsylvania. Rather, all taxes imposed by this article are taxes on the privilege of conducting businesses, trades, occupations and professions, including the business of operating a hotel or motel.
- B. It is the intent of the Board of Commissioners to impose a tax on the privilege of conducting the business of operating an office and/or residential apartment building, and the renting of space to tenants of such buildings shall be deemed to be the minimum sufficient activity to constitute the conduct of a business under the terms of this article, and such minimum activity shall not be deemed to be merely preserving the asset of the property.

**§ 260-59. Violations and penalties. [Amended 7-20-1992 by Ord. No. 92-13; 3-18-2013 by Ord. No. 2013-02]**

- A. Any person, as defined in this article, who shall fail, neglect or refuse to comply with the terms or provisions of this article shall be responsible and liable for the costs of collection, including attorneys' fees, at the flat and hourly rates shown below and at the rate of \$165 per hour for any work not included in the fees shown below:

<b>Activity</b>	<b>Legal Fees</b>	<b>Court Fees</b>	<b>Sheriff Fees</b>
Verify account information and data, establish and open file; prepare and send demand letter; account for monies received	\$135	n/a	n/a
Prepare and file civil complaint in Magisterial District Court; account for monies received	\$250	According to fee schedule	Varied
Represent taxing authority at any MDJ hearing: includes preparation of case; preparation of witnesses and any exhibits; attendance at any hearings or conferences; post-hearing pleadings or exhibits	\$165 per hour	n/a	n/a
Prepare and file request to certify judgment with County; account for monies received	\$125	According to fee schedule	n/a
Execution of judgment against delinquent taxpayer, e.g., prepare praecipe for writ of execution and all related documents	\$165 per hour	According to fee schedule	Varied

- B. Any person, as defined in this article, or any officer, agent, servant or employee thereof who shall fail, neglect or refuse to comply with any of the terms or provisions of this article shall, upon conviction thereof before a District Judge of the Township of Radnor, be subject to a fine of not more than \$600 and costs of prosecution for each offense and, in default of payment of such fine and costs, to imprisonment in the county jail for a term not exceeding 30 days. The fine imposed by this section shall be in addition to any other penalty imposed by any other section of this article.

**§ 260-60. Construal of provisions.**

Nothing in this article shall be construed to affect any suit or proceeding pending in any court or any rights acquired or liability incurred or any cause or causes of action acquired or existing prior to its adoption, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article.

**§ 260-61. Apportionment.**

In the event that this article takes effect after the beginning of a tax year, the tax imposed by § 260-42 hereof shall be imposed on the gross receipts for that portion of the tax year commencing with the effective date of this article and the estimated gross receipts determined under § 260-44A, B and C of this article shall be apportioned accordingly.

**§ 260-62. Statutory authority.**

This article has been adopted under the authority of the Local Tax Enabling Act of the General Assembly of the Commonwealth of Pennsylvania, approved December 31, 1965, P.L. 1257, as amended.<sup>2</sup>

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2. Editor's Note: See 53 P.S. § 6901 et seq.