

ARTICLE II  
**Mercantile Tax**  
**[Adopted 2-25-1974 by Ord. No. 1564 as Ch. 122, Part 3, of**  
**the 1974 Code]**

**§ 260-18. Intent; statutory authority.**

The Board of Commissioners of the Township of Radnor, under and by virtue of the authority vested in it by Act No. 511 of the General Assembly of the Commonwealth of Pennsylvania, approved December 31, 1965, P.L. 1257, as amended, known as the "Local Tax Enabling Act,"<sup>1</sup> does ordain that a mercantile tax to provide revenue for general Township purposes is hereby levied, assessed and imposed upon persons engaging in the occupation or business of wholesale vendor of or dealer in goods, wares and merchandise or retail vendor of or dealer in goods, wares and merchandise and wholesale and retail dealer therein and all persons engaged in conducting restaurants or other places where food, drink or refreshments are sold, in accordance with the following.

**§ 260-19. Title.**

This article shall be known and may be cited as the "Mercantile Tax Ordinance."

**§ 260-20. Definitions.**

As used in this article, the following terms shall have the meanings indicated, unless the context clearly indicates a different meaning:

COLLECTOR — The Township Manager of the Township of Radnor or his designated representative.

GROSS VOLUME OF BUSINESS — Includes both cash and credit transactions, and trade-in transactions as provided by law.

LICENSE YEAR — The twelve-month period beginning the first day of January.**[Amended 9-10-2012 by Ord. No. 2012-13]**

PERSON — Any individual, partnership, limited partnership, association or corporation (except such as are wholly exempt from taxation under the Act of the General Assembly No. 511, approved December 31, 1965, P.L. 1257).<sup>2</sup>

RETAIL DEALER or RETAIL VENDOR — Any person who is a dealer in or a vendor of goods, wares and merchandise and who is not a

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

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

wholesale dealer or vendor or a wholesale and retail dealer or vendor, as hereinafter defined.

TEMPORARY, SEASONAL OR ITINERANT BUSINESS — Any business that is conducted at one location for less than 60 consecutive calendar days.

TOWNSHIP — The Township of Radnor.

WHOLESALE AND RETAIL DEALER or WHOLESALE AND RETAIL VENDOR — Any person who sells to dealers in or vendors of goods, wares and merchandise and to other persons.

WHOLESALE DEALER or WHOLESALE VENDOR — Any person who sells to dealers in or vendors of goods, wares and merchandise and to no other persons.

**§ 260-21. Applicability. [Amended 7-20-1992 by Ord. No. 92-13]**

The terms of this article shall not apply to nonprofit corporations or associations organized for religious, charitable or educational purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania or any person vending or disposing of articles of his own manufacture for shipment or delivery away from the place of the manufacture thereof or any farmer vending or disposing of his own produce or other transaction exempted by law.

**§ 260-22. Mercantile license required; fee. [Amended 12-26-1979 by Ord. No. 79-32; 9-10-2012 by Ord. No. 2012-13; 9-10-2012 by Ord. No. 2012-13]**

- A. Every person desiring to continue to engage in or hereafter to begin to engage in the business of wholesale or retail or wholesale and retail, vendor or dealer in goods, wares and merchandise and any person conducting a restaurant or other place where food, drink or refreshments are sold in the Township shall, on or before the first day of July of each license year or prior to commencing business in any such license year, apply for and procure a mercantile license for his place of business or, if more than one, for each of his places of business in the Township from the Collector, who shall issue the same upon payment of a fee of \$10 for a wholesale or retail license for his place of business or, if more than one, for each of his places of business in the Township for such license year.
- B. If the person applying for a mercantile license has engaged in and is continuing to engage in business in the Township and already is

in possession of a valid mercantile license to expire at the end of the calendar year, the person shall make application and pay for the following year's mercantile license at the time of filing of that person's mercantile tax return, by completing the mercantile tax form and making payment for the mercantile license fee contemporaneously therewith.

- C. If the person applying for a mercantile license intends to begin to engage in business in the Township and does not possess a valid mercantile license, the person shall make application to and pay for a mercantile license at or before that person begins to engage in business in the Township, by completing an appropriate application for such license with the Township and making payment to the Township for the mercantile license fee contemporaneously therewith.

**§ 260-23. License application; assignability and posting; replacement.**

- A. Each application for a license shall be signed by the applicant, if a natural person, and in the case of an association or partnership, by a member or partner thereof and, in the case of a corporation, by an officer thereof.
- B. Such licenses shall not be assignable and shall be conspicuously posted at the place of business or each of the places of business of every such person at all times.
- C. In the case of loss, defacement or destruction of any license, the person to whom the license was issued shall apply to the Collector for a new license, for which a fee of \$0.50 shall be charged.

**§ 260-24. Imposition of tax; applicability.**

- A. Assessment of tax; rate. A tax to provide revenue for general Township purposes is hereby levied, assessed and imposed upon every person engaging in any of the following occupations or businesses in the Township, at the rate hereinafter set forth, and such persons shall pay a mercantile tax for each year, beginning January 1, at such rate, subject to the exemptions hereinafter set forth: **[Amended 12-9-1985 by Ord. No. 85-35; 9-10-2012 by Ord. No. 2012-13]**

- (1) Wholesale vendors or dealers in goods, wares and merchandise of every kind, at the rate of three mills on each dollar of the gross volume of business transacted by him during the license year.

- (2) Retail vendors or dealers of goods, wares and merchandise of every kind, and all persons engaged in conducting restaurants or other places where food, drink or refreshments are sold, at the rate of three mills on each dollar of the gross volume of business transacted by him during the license year.
- B. Amount of gross volume nontaxable. The first \$25,000 of gross volume of business transacted by the vendors specified and described within this section in Subsection A(1) and (2) above, shall be exempt from and not subject to the rates of taxation determined for such vending transactions. The first \$25,000 of gross volume of business transacted by the vendors specified and described in Subsection A shall be exempt from and not subject to the rates of taxation determined and specified therein, such exemption first applying to the gross volume of business arising from retail sales and the balance, if any, applying to the gross volume of business arising from wholesale sales conducted by such vendors.
- C. Exemption for resale or trade-ins. The tax imposed by this article shall not apply to the dollar volume of annual business transacted by wholesale and retail dealers described in Subsections A(1) and (2) above, derived from the resale of goods, wares and merchandise taken by any dealer as a trade-in or as a part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

### **§ 260-25. Computation of tax.**

The following subsections refer to the computation of the estimated gross volume of business:

- A. Every person subject to the payment of the tax hereby imposed who has commenced his business at least a full year prior to the beginning of a license year shall compute the estimated gross volume of business for that license year upon the actual gross amount of business transacted by him during the 12 months preceding.
- B. Every person subject to the payment of the tax hereby imposed who has commenced his business less than one full year prior to the beginning of a license year shall compute the estimated gross volume of business for that year by multiplying by 12 the monthly average of the actual gross amount of business transacted by him during the months he was engaged in business prior to January 1. **[Amended 9-10-2012 by Ord. No. 2012-13]**

- C. Every person subject to the payment of the tax hereby imposed who commences his business subsequent to the beginning of a license year shall compute the estimated gross volume of business for that license year upon the gross volume of business transacted by him during the first month of his engaging in business, multiplied by the number of months remaining in the license 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 the estimated gross volume of business upon the actual gross amount of business transacted by him during the license year.

**§ 260-26. Taxpayer returns. [Amended 9-10-2012 by Ord. No. 2012-13]**

- A. General requirements. Every return, as hereinafter required by this article, shall be made upon a form furnished by the Collector thereof under the penalties of perjury. Every person making such return shall furnish all information requested therein and certify the correctness thereof.
- B. Tax returns.
  - (1) Every person subject to the tax imposed by this article who has commenced his business at least one full year prior to the beginning of the license year shall, on or before the 15th day of May following, file with the Collector a return setting forth his name, his business and business address and such other information as may be necessary to compute the actual gross volume of business transacted by him during the license year and the amount of tax estimated to be due.
  - (2) Every person subject to the tax imposed by this article who has commenced his business less than one full year prior to the beginning of the license year shall, on or before the 15th day of May following, file with the Collector a return setting forth his name, his business, business address and such other information as may be necessary to compute the actual gross volume of business transacted by him during the license 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 license year shall, within 60 days from the date of commencing such business, file with the Collector a return

setting forth his name, business and business address and such information as may be necessary to compute the actual gross volume of business transacted by him during the license year 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 day he completes such business, file with the Collector a return setting forth his name, his business and business address and such information as may be necessary in arriving at the actual gross amount of business transacted by him during such period and the amount of the tax due.

C. Final tax return.

- (1) On or before May 15 of each year, every person subject to the tax hereby imposed shall make a final return to the Collector, showing the actual volume of business transacted by the taxpayer during the preceding license year. Such final return shall state the amount of the gross volume of business as set forth in the first tax return, the amount of tax paid at the time of filing the first tax return and the amount of tax due upon the final computation.
- (2) Any person ceasing to do business during the license year shall, within 14 days from the date of ceasing to do business, file a final return showing the actual gross volume of business conducted during that portion of the license year in which said person was actually in business, and pay the tax due as computed thereon.

**§ 260-27. Payment of tax.**

- A. Estimated tax. At the time of filing the first tax return, the person making the same shall pay the amount of the tax estimated to be due.
- B. Balance due. At the time of the filing of the final tax return, if the full amount of the tax due by the taxpayer for the license year has not been paid, the taxpayer shall pay the remaining balance of the tax, which will be the difference between the amount of 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.

**§ 260-28. Collection of tax; record.**

It shall be the duty of the Collector to collect and receive the fees, taxes, fines and penalties imposed by this article. It shall also be his duty to keep a record showing the amount of the tax received by him and the date of payment.

**§ 260-29. Examination of taxpayer records; other duties of Collector.**

If the Collector is not satisfied with the return and payment of tax made by any taxpayer or supposed taxpayer under the provisions of this article, he 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 his possession or that shall come into his possession, and for this purpose the Collector or his authorized agent 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 thereof or to ascertain whether the taxes imposed by this article have been paid. The Collector 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 licensees who engage in a business temporary, seasonal or itinerant by its nature.

**§ 260-30. Estimation of tax by Collector.**

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 Collector, a return is found to be incorrect, the Collector shall estimate the tax due by such person and determine the amount due by him for taxes, penalties and interest thereon.

**§ 260-31. Responsibility for claiming exemption.**

The burden is hereby imposed upon any person, firm or corporation claiming an exemption from the payment of the tax hereby imposed to convince the Collector of his legal right to such exemption.

**§ 260-32. Refunds.**

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

for the year or by reason of the fact that the taxpayer did not continue to engage in business throughout the year, the Collector 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.

**§ 260-33. Confidential nature of returns.**

Any information gained by the Collector or any other Township employee or official from the administration of this tax shall be confidential, except in accordance with proper judicial order or as otherwise provided by law, and divulgence of any information so gained is hereby declared to be a violation of this article.

**§ 260-34. Additional regulations.**

On or before the effective date of this article, the Board of Commissioners shall, by resolution, adopt mercantile tax regulations for the purpose of further clarifying applicability of the tax.

**§ 260-35. Recovery of unpaid taxes; interest and penalty.**

- A. All taxes due and unpaid under this article shall be recoverable by the Township Solicitor as other debts due the Township are now by law recoverable.
- B. 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 Collector and collected.

**§ 260-36. Payment of receipts into general fund.**

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

**§ 260-37. Limitations.**

Nothing contained in this article shall be construed to empower the Township 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 Township under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.



**§ 260-38. 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.

**§ 260-38.1. Short tax year and reporting period to effectuate conversion from fiscal to calendar year. [Added 9-10-2012 by Ord. No. 2012-13]**

To effectuate the conversion from a fiscal tax year ending June 30 to a calendar tax year during the year 2012, for purposes of the year 2012 only, there shall be a short tax year covering the period beginning July 1, 2012, and ending December 31, 2012. For purposes of payment of estimated taxes for 2013 only, the estimated tax to be paid for the tax year 2013 shall be calculated based upon a calculation of double the taxable gross receipts for the short calendar year beginning July 1, 2012, and ending December 31, 2012.