

**ARTICLE VII. BUSINESS PRIVILEGE TAX\***

**Sec. 22-130. Short title.**

This article shall be known and may be cited as the "Business Privilege Tax Ordinance."  
(Ord. No. 861, § 1, 10-12-81)

**Sec. 22-131. Definitions.**

(a) The following words and phrases, when used in this article, shall have the meaning ascribed to them by this section unless the context clearly indicates a different meaning:

*Business* shall mean all businesses, trades, occupations, professions and activities carried on or exercised for gain or profit in Plymouth Township including, without limitation, enterprises engaged in by operators of hotels, motels, parking lots, garages and warehouses; lessors of real and/or tangible personal property; teachers, veterinarians, lawyers, engineers, architects, chemists, certified public accountants, public accountants, funeral directors, consultants, social workers, psychologists, nurses, therapists, physicians, surgeons, osteopaths, dentists, podiatrists, chiropractors, optometrists, pharmacists, and other health care providers; promoters, factors, commission merchants, agents, brokers, and manufacturers 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; operators of barbershops, beauty shops, cleaning, pressing and dyeing establishments, laundries, shoe repair shops, tailor shops, and furniture finishing and upholstering shops; contractors engaged in the electrical, plastering, bricklaying, masonry, carpentry, heating, ventilating, air conditioning, plumbing, painting and other building trades, whether engaged in new construction or in the alteration, maintenance or repair of structures and land; persons engaged in the repair of electrical, electronic and automotive machinery and equipment or other machinery and equipment; and other businesses, trades, occupations and professions in which any services are offered.

*Collector* shall mean the finance director of Plymouth Township.

**\*Editor's note**—Ordinance No. 861, §§ 1—23, adopted Oct. 12, 1981, enacted the provisions codified as Art. VII, §§ 22-130—22-152, above. Since said ordinance did not expressly amend this Code, the manner of codification has been in the editor's discretion.

*Gross volume of business* shall include both cash and credit transactions and trade-in transactions, undiminished by any costs of doing business, as provided by law.

*Gross volume of business* shall include cash, credit and trade-in transactions attributable to the township, undiminished by any costs of doing business, as provided by law. When the gross volume of business in its entirety cannot be subjected to the tax levied in this article by reason of federal or state law, then such gross volume of business shall be apportioned and/or allocated in accordance with federal or state law and rules, regulations and/or methods of apportionment and/or allocation established by the township finance director.

*License year* shall mean the twelve-month period beginning the first day of January, 1982, and each calendar year thereafter.

*Person* shall mean any and all individuals, partnerships, limited partnerships, associations or corporations except such as are wholly exempt from taxation under the Local Tax Enabling Act. Whenever used in any clause prescribing or imposing a penalty, the term "person," as applied to an association, shall mean the partners or members thereof, and, as applied to a corporation, shall mean the officers thereof.

*Township* shall mean Plymouth Township.

(b) The terms hereinbefore defined shall not be deemed to include persons, corporations or associations wholly exempt from taxation under the Pennsylvania Constitution, the Act of May 22, 1933, P.L. 853, article II, section 204, as amended, or the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257 as amended.

(Ord. No. 861, § 2, 10-12-81; Ord. No. 972, § 1, 7-13-87; Ord. No. 1037, § 1, 5-14-90; Ord. No. 1099, § 1, 4-20-92; Ord. No. 1161, § 1, 11-14-94; Ord. No. 1206, § 1, 12-9-96)

#### **Sec. 22-132. Registration.**

For the year beginning January 1, 1982, and each year thereafter, every person desiring to continue to engage in or to hereafter begin to engage in any business, trade, occupation or profession in Plymouth Township shall, on or before the first day of January, 1982, and each year thereafter, or prior to commencing business in any such year, make application for registration for the place of business, or, if more than one such place of business, for each such place in the township. Registration shall be with the collector who shall provide forms therefor upon payment of a fee of twenty-five dollars (\$25.00) for each such place of business. Each registration shall be made by the applicant, if a natural person and, in the case of an association or partnership, by a member or partner thereof, or, in the case of a corporation, by an officer thereof. The registration shall not be assignable and shall be maintained at the place of business at all times. In the case of loss, defacement or destruction of any registration certificate, the person to whom the certificate was issued shall apply to the collector for a new certificate for which a fee of fifty cents (\$0.50) shall be charged.

(Ord. No. 861, § 3, 10-12-81; Ord. No. 1044, § 1, 10-8-90)

**Sec. 22-133. Tax levied.**

A tax to provide revenue for general township purposes is hereby levied, assessed and imposed upon every person engaging in business in the township at the rate of one and one-half (1½) mills on each dollar of the gross volume of business transacted during the calendar year; provided, however, that in no event shall the annual business privilege tax herein imposed be less than ten dollars (\$10.00) for each place of business within the township of every such person.

(Ord. No. 861, § 4, 10-12-81; Ord. No. 882, § 1, 12-13-82)

**Sec. 22-134. Computation of estimated tax.**

The following provisions 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 business at least a full year prior to January 1, 1982, shall compute the estimated gross volume of business upon the actual gross amount of business transacted during the twelve (12) months preceding January 1, 1982.
- (b) Every person subject to the payment of the tax hereby imposed, who commenced business less than one full year to January 1, 1982, shall compute the estimated gross volume of business by multiplying by twelve (12) the monthly average of the actual gross amount of business transacted during the months that the business was in operation prior to January 1, 1982.
- (c) Every person subject to the payment of the tax hereby imposed who commences business subsequent to January 1, 1982, shall compute the estimated gross volume of business for the year upon the gross volume of business transacted during the first month of 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 a 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 during the license year.

(Ord. No. 861, § 5, 10-12-81)

**Sec. 22-135. Returns of the taxpayer.**

Every return, as hereinafter required, shall be made upon a form furnished by the collector. Every person making such return shall furnish all information requested therein and shall certify the correctness thereof under the penalties of perjury.

(Ord. No. 861, § 5, 10-12-81)

**Sec. 22-136. Initial returns.**

Initial tax returns shall be made as follows:

- (a) 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 license year, shall, on or before the

15th day of April following, file with the collector a return setting forth the name, business and business address, and such other information as may be necessary to compute the actual gross volume of business transacted during the license year and the amount of tax estimated to be due.

- (b) 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 license year shall, on or before the 15th day of April following, file with the collector a return setting forth the name, 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.

- (c) Every person subject to the tax imposed by this article who commences business subject to the beginning of the license year shall, within forty-five (45) days from the date of commencement of such business, file a return with the collector, setting forth the 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.

(Ord. No. 861, § 7, 10-12-81)

**Sec. 22-137. Payment of estimated tax.**

At the time of filing the initial tax return, the person making the same shall pay the amount of the tax estimated to be due.

(Ord. No. 861, § 8, 10-12-81)

**Sec. 22-138. Final tax return.**

On or before April 15th of each year, beginning in 1983, 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 estimated gross volume of business set forth in the initial tax return, the amount of tax paid at the time of filing the initial tax return, and the amount of tax due upon the final computation.

(Ord. No. 861, § 9, 10-12-81)

**Sec. 22-139. Termination of business.**

Any person ceasing to do business during the license year shall, within fourteen (14) days from the date of cessation of 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. Such final return shall state the amount of the estimated gross volume of business set forth in the initial tax return, the amount of estimated tax paid at the time of filing the initial tax return and the amount of tax due on the final computation.

(Ord. No. 861, § 10, 10-12-81)

**Sec. 22-140. Payment of final tax.**

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 estimated tax paid at the time of filing the initial return and the amount of the tax finally shown to be due.

(Ord. No. 861, § 11, 10-12-81)

**Sec. 22-141. Duties of collector.**

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.

(Ord. No. 861, § 12, 10-12-81)

**Sec. 22-142. Verification of records.**

Based upon the facts contained in the return, or upon any information within his possession, the collector is hereby authorized and empowered to make a determination of the tax due by any taxpayer or a determination that a person who has not filed a return should be a taxpayer. For this purpose, the collector, or his authorized agents, are 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 taxes imposed by this article have been paid or should 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 required to put this article into effect, and may, in his discretion, require reasonable deposits to be made by licensees who engage in a business which by its nature is temporary, seasonal or itinerant.

(Ord. No. 861, § 13, 10-12-81)

**Sec. 22-143. Taxes estimated by collector.**

If any taxpayer or one required to be a taxpayer shall neglect or refuse to file a return or make 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 from him for taxes, penalties and interest thereon.

(Ord. No. 861, § 14, 10-12-81)

**Sec. 22-144. Exemptions.**

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

(Ord. No. 861, § 15, 10-12-81)

**Sec. 22-145. Refunds.**

If the final return of the taxpayer shows overpayment of the tax by reason of the fact that the gross volume of business as stated in the estimated computation was less 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, without interest, the amount of the overpayment, which shall be the difference between the amount of tax paid upon the filing of the initial return and the amount of the tax finally shown to be due.

(Ord. No. 861, § 16, 10-12-81)

**Sec. 22-146. Confidential nature of returns.**

Any information obtained by the collector or any other township employee or official by virtue of the administration of this tax shall be deemed confidential and shall not be divulged except in accordance with proper judicial order or as otherwise provided by law, and release of such information is hereby declared to be unlawful under this article.

(Ord. No. 861, § 17, 10-12-81)

**Sec. 22-147. 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 by law recoverable.

(Ord. No. 861, § 18, 10-12-81)

**Sec. 22-148. Interest and civil penalty for nonpayment.**

(a) All taxes due under this article shall bear interest at the rate of one and one-quarter ( $1\frac{1}{4}$ ) per centum per month or fractional part of a month from the date due and payable until paid. Any taxpayer who shall neglect or refuse to make payment as herein required shall be assessed an additional ten (10) per centum of the amount of the tax due as a penalty.

(b) If legal action is brought for the recovery of this tax, interest and penalty, the taxpayer thereafter shall, in addition, be responsible and liable for collection costs, including court costs and attorney fees.

(Ord. No. 861, § 19, 10-12-81; Ord. No. 1128, § 1, 8-16-93)

**Sec. 22-149. Penalty for violation.**

Whenever any person, firm or corporation has been notified by any of the duly authorized and constituted representatives of the township of the violation of any provision of this article, or by service of summons or prosecution, or in any other way that such a violation has been committed, each day of violation shall constitute a separate offense punishable as provided in Section 1-9(a) of this Code.

(Ord. No. 861, § 20, 10-21-81; Ord. No. 1000, § 3, 11-14-88)

**Sec. 22-150. Receipts to be paid 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 Plymouth Township for the use and benefit of the township.

(Ord. No. 861, § 21, 10-12-81)

**Sec. 22-151. 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 business, or portion of 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. (Ord. No. 861, § 22, 10-12-1981)

**Sec. 22-152. Construction.**

The provisions of this article are severable and if any of its provisions or exemptions shall be held to be illegal, invalid or unconstitutional or invalid or unconstitutional as to any part of the period designated herein as the license year, the decisions of any court shall not affect or impair any of the remaining provisions of this article or affect or impair its application upon any other part of the said license year, and the requirements as to the license shall operate as to the effective date of this article and the computation of tax and payment thereof shall be applied and adjusted accordingly. (Ord. No. 861, § 23, 10-12-1981)

**Sec. 22-153. Receipts in interstate commerce.**

When a taxpayer carries on activities and/or engages in business in another state or states than Pennsylvania, and regardless of whether or not the taxpayer has an office or place of business in that other state, the following principles shall apply:

(a) Receipts from activities carried on within the Commonwealth of Pennsylvania, but not properly allocable to another place of business within the Commonwealth of Pennsylvania, shall be allocable to Plymouth Township.

(b) Receipts from activities carried on within other states shall be apportioned to Plymouth Township by multiplying the total gross receipts of the taxpayer for the taxing period by a fraction, the numerator of which is the Property Factor, plus the Payroll Factor, plus the Gross Receipts Factor (such capitalized terms being hereinafter defined), and the denominator of which is three (3).

(1) *Property Factor.* The Property Factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this township during the tax period and the denominator of which is the average value of all of the taxpayer's real and tangible personal property owned or rented and used during the tax period, but shall not include the security interest of any corporation as seller or lessor in personal property sold or leased under a conditional sales, bailment lease, chattel mortgage or other contract providing for the retention of a lien or title as security for the sales price of the property.

(i) Property owned by the taxpayer shall be valued at its Fair Market Value. Solely for the purposes hereof, property rented by the taxpayer shall be valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.



(ii) The average value of the property shall be determined by averaging the values at the beginning and ending of the tax period, but the collector may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(2) *Payroll Factor.* The Payroll Factor is a fraction, the numerator of which is the total amount paid in this township during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

(i) Compensation is paid in this township if:

- 1) The individual's service is performed entirely within the township; or
- 2) The individual's service is performed both within and without the township but the service performed without the township is incidental to the individual's service within this Township; or,
- 3) Some of the service is performed in the township and the base of operations (or if there is no base of operations, the place from which the service is directed or controlled) is in this township, or if the base of operations or the place from which the service is directed or controlled is not in any jurisdiction in which some part of the service is performed, but the individual's residence is in the township.

(3) *Gross Receipts Factor.* The Gross Receipts Factor is a fraction, the numerator of which is the gross business revenues of the taxpayer in this township during the tax period, and the denominator of which is the gross business revenues of the taxpayer everywhere during the tax period.

(c) All receipts from interstate commerce, whether taxable or nontaxable under the foregoing rules, must be included on the return filed by the taxpayer and a deduction for the nontaxable receipts shall be allowed thereon.

(d) *Exclusionary provisions.* Plymouth Township will exclude from taxable gross receipts any receipts on which the taxpayer has paid a business privilege tax or similar tax to another political subdivision based on the taxpayer's performance of a service or conduct of business in that subdivision.

(e) This Section 22-153 shall apply to Business Privilege Tax Returns filed for calendar and fiscal years beginning January 1, 2006, and thereafter.  
(Ord. No. 1449, § 1, 11-14-2005)

**Sec. 22-154—22-162. Reserved.**