

ARTICLE IV
Mercantile and Business Privilege Tax
[Adopted 12-6-2006 by Ord. No. 116]

§ 116-23. Title.

This article shall be known and may be cited as the "Chadds Ford Township Business Privilege Tax Ordinance of 2006."

§ 116-24. Statutory authority.

This article is enacted under the authority of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257,¹ as amended.

§ 116-25. Definitions and word usage.

- A. The singular shall include the plural, and the plural, the singular. Words used in the masculine gender shall include the feminine and neuter genders. Words used in the past or present tense shall include the future.
- B. The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

BUSINESS — Conduct or exercise of any trade, occupation, profession, financial business or other commercial activity, the sale of merchandise or other tangible personal property, the sale of real estate by brokers or agents, the rental of personal property or real estate and the performance of any service or services to the general public or a limited number thereof within, irrespective of whether it is conducted from an office located within the Township, or attributable to a place of business within the Township of Chadds Ford, except to the extent that such business is excluded from the imposition of the tax hereby imposed by any statute, regulation or judicial interpretation thereof.

FINANCIAL BUSINESS — The services and transactions of banks and bankers, of trust, credit and investment companies, of holding companies, of dealers and brokers in money, credits, commercial paper, bonds, notes, securities, stocks and monetary metals and of factors and commission merchants, except to such extent as such business is excluded from the imposition of the tax hereby imposed by any statute, regulation or judicial interpretation thereof.

GROSS RECEIPTS — Cash, credit or property of any kind or nature, received or allocable or attributable to business conducted in the Township of Chadds Ford without deduction therefrom on account of the cost of property sold, of the material used or the labor, the service performed or any other cost of doing business. "Gross receipts" shall exclude, however, those items which are:

- (1) Discounts allowed to purchasers as cash discounts for prompt payment of their bills.

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

- (2) Charges advanced by a seller for freight, delivery or other transportation for the purchaser in accordance with the terms of a contract of sale.
- (3) Received upon the sale of an article of personal property which was acquired by the seller as a trade-in to the extent that the gross receipts in the sale of the article taken in trade does not exceed the amount of the trade-in allowance made in acquiring such article.
- (4) Refunds, credits or allowances given to a purchaser on account of defects in goods sold or merchandise returned.
- (5) Taxes collected as agent for the United States, the Commonwealth of Pennsylvania and/or its political subdivisions.
- (6) Based on the value of exchanges or transfers between one seller and another seller who transfers property with the understanding that property of an identical description will be retraded at a subsequent date; however, when sellers engaged in similar lines of business exchange property and one of them makes payment to the other in addition to the property exchanged, the additional payment received shall be included in the gross receipts of the seller receiving such additional cash payments.
- (7) Receipts by dealers 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 merchandise.
- (8) Transfers between one department, branch or division of a corporation or other business entity of goods, wares and merchandise to another department, branch or division of the same corporation or business entity and which are recorded on the books to reflect such interdepartmental transactions.
- (9) Receipts from utility service of any person or company whose rates and services are fixed and regulated by the Pennsylvania Public Utility Commission or from any public utility services rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.
- (10) Receipts from goods and articles manufactured in the Township, from the by-products of such manufacture, from minerals, timber, natural resources and farm products manufactured, produced or grown in the Township, or from preparation and processing thereof, or from any business relating to manufacturing, production, preparation or processing of materials, timber and natural resources or farm products by manufacturers, producers and farmers with respect to goods, articles and products of their own manufacture, production or growth, including transportation, loading, unloading, damaging and storage of such goods, articles, products or by-products.
- (11) Receipts of nonprofit corporations or associations organized and operating under the laws of the Commonwealth of Pennsylvania or another state or associations organized for religious, charitable or educational purposes, agencies of the government of the United States or of the Commonwealth of Pennsylvania; the

business of any political subdivision or of any authority created or organized under and pursuant to any act of assembly; or membership dues, fees or assessments of charitable, religious, beneficial or nonprofit organizations, including but not limited to sportsman's clubs, recreational clubs, golf clubs and tennis clubs, and Girl and Boy Scout troops and council.

NONPROFIT CORPORATIONS OR ASSOCIATIONS —

- (1) Organizations not for profit for the establishment and maintenance of a public or private college, secondary and elementary school or other educational institutions for the academic instruction and cultivation of the mind and/or the inculcation of moral and spiritual values, but not including an institution or organization directed primarily to physical training or development of physical or manipulative skills or any organization organized as such solely or primarily for the purpose of evading this article.
- (2) Organizations not for profit, such as a convent, monastery, church or similar institutions, but not including one organized for a purpose not otherwise permitted by any such organization or solely or primarily as a religious institution for the purpose of evading this article.
- (3) Organizations not for profit, organized and operating for the relief of poverty, the advancement of education, the advancement of religion or the promotion of health, government or other municipal purpose, but not including any organization organized as such solely or primarily for the purpose of evading this article.

PERSON — Any individual, partnership, limited partnership, association, corporation or other legal entity, except individuals employed for a wage or a salary, nonprofit corporations or associations as defined in this article, agencies of the United States government, agencies of the Commonwealth of Pennsylvania, political subdivisions of the Commonwealth of Pennsylvania and any authority or instrumentality created or organized under and pursuant to any act of assembly of the Commonwealth of Pennsylvania. 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, the officers thereof.

SERVICE — Any act or instance of assisting, helping or benefiting another for a valuable consideration in money or money's worth.

TAX COLLECTOR — A person duly appointed by resolution of the Supervisors of the Township of Chadds Ford to administer and collect the within tax.

TAX YEAR — The twelve-month period beginning the first day of January and ending the 31st day of December in each such year.

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

TOWNSHIP — Township of Chadds Ford.

§ 116-26. Registration of businesses.

- A. For the tax year beginning January 1, 2007, and each tax year thereafter, every person who engages in or who continues to engage in or thereafter begins to engage in a business at an actual place of business in the Township shall, on or before the 30th day of January of each tax year, but in tax year 2007 on or before June 1, 2007, make application for registration for each place of business in the Township to the Tax Collector.
- B. Every person subject to the tax imposed by this article who commences business subsequent to the due date for registration designated in Subsection A shall make application for registration to the Tax Collector within 30 days of commencing such business.
- C. Each application for registration shall be signed by the applicant, if a natural person, and, in the case of an association or a partnership, by a member or partner thereof, and, in the case of a corporation, by an officer thereof. The application shall be made on a form furnished by the Tax Collector and shall be accompanied by the annual tax of \$100. The Tax Collector shall thereupon issue a certificate of registration to the applicant which shall not be assignable and which must be displayed at every business location or produced on demand. In the event of loss, defacement or destruction of any such certificate, the applicant to whom the certificate has been issued shall apply to the Tax Collector for a new certificate, for which a fee as set from time to time by resolution of the Board of Supervisors shall be charged for such replacement certificate.²

§ 116-27. Amount of tax.

For the tax year beginning January 1, 2007, and for each tax year thereafter, the Township hereby imposes an annual business privilege tax on every person engaging in a business, as defined in this article, in the amount of \$100. Persons engaged in more than one business in the Township shall pay a separate tax for each separate business.

§ 116-28. Exemption.

Any person required to pay a business privilege tax under the provisions of this article shall be exempted from paying such tax if such person's annual gross receipts are \$15,000 or less.

§ 116-29. Responsibilities of collectors and persons claiming exemption.

- A. The Tax Collector is empowered and shall be charged with the duty of collecting and receiving all fees, taxes, fines and penalties imposed by this article and of keeping such records as necessary to reflect all amounts received by him, from whom received, and the date or dates of such receipt, together with such other records as the Collector shall deem necessary and appropriate.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- B. In the event that any person required by this article to register or to pay the tax imposed hereby neglects or refuses to register or to pay the tax, then in such event the Tax Collector or his duly appointed agents shall assess said person the \$100 tax. In all cases of assessment, the Tax Collector or his duly appointed agents shall give the person assessed written notice in which shall be stated the taxpayer's name, if known, the business, business address, the determined amount of gross receipts and the amount of the tax assessed as due.
- C. The burden of proof is hereby imposed upon any person claiming an exclusion of gross receipts for tax purposes by virtue of the definition of that term or an exemption from the payment of the tax hereby imposed to prove by clear and convincing evidence the legal right to such exclusion or exemption to the satisfaction of the Tax Collector, including the submission of all books, records and documents upon which such claim is based.

§ 116-30. Confidentiality.

Any information gained by the Tax Collector or any official, agent or employee of the Township as the result of any application, investigation or verifications required or authorized by this article shall be confidential except for official purposes, proper judicial order or as otherwise provided by law.

§ 116-31. Recovery of overdue payments; cost of collection; disposition.

- A. All fees, taxes, interest and penalties due and unpaid under this article shall be recoverable by the Tax Collector, the Township or the Township Solicitor as other debts due the Township are now by law enforceable or as provided under the Local Tax Enabling Act. All such remedies shall be cumulative, and none shall be deemed to be exclusive.
- B. If for any reason any fee, tax, interest or penalty is not paid when due and suit is brought for the recovery thereof, the person liable therefor shall, in addition, be liable for all costs of collection together with an attorney's reasonable commission for collection.
- C. All fees, taxes, interest and penalties received, collected or recovered under the provisions of this article shall be paid into the general fund of the Township for the use and benefit of the Township.

§ 116-32. Limitation of taxing power.

Nothing contained in this article shall be construed to empower the Township to levy and collect the tax hereby imposed on any person or any business or any part of any business not within the taxing power of the Township under the Constitution of the United States or the Constitution and laws of the Commonwealth of Pennsylvania.

§ 116-33

TAXATION

§ 116-34

§ 116-33. Violations and penalties.

If any person shall purposefully fail to register and pay the tax due, the Tax Collector may, 90 days after the notice of assessment described in § 116-29B, impose a penalty of \$100 if the taxpayer has not either paid the assessment or challenged the assessment in writing.