

ORDINANCE NO. 1101

AN ORDINANCE OF THE BOROUGH OF WEST READING, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA AMENDING CHAPTER 410 OF THE CODE OF THE BOROUGH OF WEST READING, WHICH CHAPTER IS ENTITLED "TAXATION", BY AMENDING ARTICLE I ENTITLED "BUSINESS PRIVILEGE TAX" IN AN EFFORT TO ADMINISTER THE BUSINESS PRIVILEGE TAX MORE EFFICIENTLY FOR BOTH THE TAX COLLECTORS AND THE TAXPAYERS.

WHEREAS, on December 18, 1979, the Borough Council of the Borough of West Reading, Berks County, Pennsylvania ("Borough Council") enacted the Business Privilege Tax Ordinance for the Borough of West Reading ("Business Privilege Tax Ordinance"); and

WHEREAS, Ordinance No. 651 adopted on December 18, 1979, has been codified in the Code of the Borough of West Reading in Chapter 410, Article I in Section 410-1 through Section 410-12; and

WHEREAS, the Business Privilege Tax Ordinance requires the quarterly filing of returns and quarterly payment of Business Privilege Taxes; and

WHEREAS, in order to administer the Business Privilege Tax more efficiently for both the tax collectors and the taxpayers, the Borough Council desires to amend the Business Privilege Tax Ordinance to require annual filings and estimated tax payments; and

WHEREAS, the Borough Council does not desire to modify the scope or measure of the Business Privilege Tax, nor shall the Borough Council's action be considered or interpreted as modifying or intending to modify the scope or measure of the Business Privilege Tax.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Council of the Borough of West Reading, County of Berks, Commonwealth of Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

SECTION 1. Article I of Chapter 410 of the Code of the Borough of West Reading consisting of Sections 410-1 to 410-12 is hereby amended by repealing and re-enacting Sections 410-3A., 410-4B., 410-4., and by creating and enacting Section 410-7B. and 7C. to read as follows:

§410-3. Imposition of tax.

A. The rate of the tax on each and every of the whole or gross volume of business transacted by persons who are wholesale dealers or wholesale vendors shall be one mill (\$1 per \$1,000 of gross volume of business), and the rate of the tax on each and every whole dollar of the whole or gross volume of business transacted by other persons who are retail dealers shall be 1 1/2 mills (\$1.50 per \$1,000 of gross volume of business).

§410-4. Returns.

- A. Every return shall be made upon a form furnished by the Tax Administrator. Every person making a return shall certify the correctness thereof by signature.
- B. Business privilege tax returns are due annually on or before April 15. For the first year in which business activity has commenced within the District, a tax return for the initial year's estimated tax is due within 100 days after commencement of business activity if business activity commenced prior to July 1.
- C. Each year's tax has two components: (1) the current year's estimated tax; and (2) the prior year's final tax. The current year's tax is estimated based on actual gross volume of business from the immediate prior year. The prior year's final tax is a reconciliation using the actual gross volume of business from the immediate prior year, less the estimated tax paid from the previous year's return.
- D. Computation of estimated and actual gross volume of business shall be made in the following manner:

(1) Estimated gross volume of business 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 volume of business of that person during the 12 months preceding such January 1.

(2) Estimated gross volume of business for any tax year of any person subject to the payment of the tax hereby imposed who commences business subsequent to January 1 of a tax year or the prior year shall be computed for the initial and subsequent tax year in the case of the initial tax year by multiplying the average monthly gross volume of business before July 1 by the number of months from start to year end, and in the case of the subsequent year multiplying by 12 the average of monthly gross volume of business during the months of business activity prior to January 1.

(3) 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 volume of business upon such person's actual gross volume of business during each tax year, and shall file a return and pay the tax within thirty (30) days from the date business is completed during the tax year.

§410-7. Violations and penalties.

- B. Criminal Offense and Fines. Tax returns shall include a statement that all information included in tax returns are statements made "under penalty," meaning that false statements are punishable under 18 Pa.C.S. § 4904(b) as a criminal offense. In addition to any other penalty that may be imposed, a person convicted for making false statements shall be sentenced to pay a fine of at least one thousand dollars (\$1,000).
- C. Payment of tax and penalties for late payment. The business privilege tax levied

pursuant to this article shall be due and payable on the date on which the taxpayer is required to file a return as set forth above. All taxpayers who shall fail to pay said tax after the due date shall be charged a penalty of 10% plus an additional 1 1/2% per month or fractional part of a month, commencing with the penalty period, until said tax is paid.

SECTION 2. All other sections, parts and provisions of the Code of the Borough of West Reading shall remain in full force and effect as previously enacted and amended.

SECTION 3. If any provision, sentence, clause, section or part of this ordinance shall for any reason be found unconstitutional, illegal or invalid, such determination shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance, and it is hereby declared to be the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not be included herein.

SECTION 4. All ordinances or parts of ordinances and all existing portions of the Code of the Borough of West Reading inconsistent herewith are hereby repealed.

SECTION 5. This Ordinance shall take effect and be in force from its enactment as provided by law.

ENACTED AND ORDAINED as an Ordinance of the Borough of West Reading, Berks County, Pennsylvania this ____ day of _____, 2018.

BOROUGH OF WEST READING

By: _____
Nicholas Imbesi, President of Borough Council

Attest: _____
Cathy Hoffman, Secretary of the Borough

APPROVED as an Ordinance this ____ day of _____, 2018.

Andrew Kearney, Mayor