ORDINANCE NO. 24-74

IMPOSING A TAX FOR GENERAL REVENUE PURPOSES AT THE RATE OF FIVE DOLLARS FOR THE CALENDAR YEAR ON INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE LIMITS OF MIDDLESEX TOWNSHIP; PROVIDING FOR ITS COLLECTION; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING SAID TAX FROM EVERY INDIVIDUAL IN THEIR EMPLOY SUBJECT TO SAID TAX AND REMITTING AND PAYING OVER THE SAME TO THE COLLECTOR OF SAID TAX; CONFERRING AND IMPOSING POWERS AND DUTIES OF COLLECTION AND ADMINISTRATION ON THE COLLECTOR OF SAID TAX; AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED AND ENACTED by Township of Middlesex, Cumberland County, Pennsylvania, under the authority of the Act of Assembly approved December 31, 1965, P. L. 1257, Act No. 511, of the Commonwealth of Pennsylvania, as amended, known as "The Local Tax Enabling Act," as follows:

SECTION 1: This Ordinance shall be known and may be cited as The Occupation Privilege Tax Ordinance.

SECTION 2: Definitions: The following words and phrases when used in this ordinance shall have the meanings ascribed to them in this Section except where the context or language clearly indicates or requires a different meaning:

(A) "Individual" shall mean any person, male or female, 18 years of age or over engaged in any occupation within the limits of Middlesex Township.

(B) "Occupation" shall mean any trade, profession, business or undertaking of any type, kind or character including services, domestic or other carried on or performed within the geographical limits of Middlesex Township. for which an aggregate total compensation of at least One Thousand Dollars per calendar year is charged or received whether by means of salary, wages, commissions, or fees for services rendered.

(C) "Employer" shall mean an individual, partnership, association, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission, fee or other compensation basis, including a self-employed person.

(D) "Tax" shall mean the occupation privilege tax levied by this Ordinance.

(E) "Collector" shall mean the person or firm from time to time designated by motion of Township of Middlesex to collect and administer the provisions of this Ordinance and collect the tax levied by this Ordinance.

(F) "He", "His" or "Him" shall include singular and plural number, and male, female and neuter gender.

SECTION 3: Levy: Township of Middlesex hereby levies and imposes a tax in the amount of Five ($5.00) Dollars for the calendar year of 1975 and every calendar year thereafter on every individual for the privilege of engaging in an occupation within the geographical limits of Middlesex Township. This tax is in addition to all other taxes of any kind or nature heretofore levied by Middlesex Township.

SECTION 4: Duty of Employer: Each employer within Middlesex Township and each employer situate outside Middlesex Township but who engages in business within Middlesex Township, is hereby charged with the duty of collecting the tax from each of the employees engaged by him and performing for him within Middlesex Township, and making a return and payment thereof to the collector. Further, each employer is hereby authorized to deduct said tax from the salary, wages, commissions or fees paid each employee in his employ.

SECTION 5: Returns: Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the collector. Each employer in filing this return and making payment of the tax withheld from his employee shall be entitled to retain a commission calculated at the rate of one (1%) per cent of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages, commissions or fees paid by him to said employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him.

SECTION 6: Dates for Determining Tax Liability and Payment: Each employer shall use his employment records from the first day of January to the thirty-first day of March, each year, for determining the number of employees from whom said tax shall be deducted and paid over to the collector on or before April 30 of the same year. Supplemental reports shall be made thereafter by each employer on July 31, October 31 of the same year and January 31, of the succeeding year, for new employees as reflected on his employment records from the preceding April 1 to June 30, July 1 to September 30, and October 1 to December 31. Payments on these supplemental reports shall be made on the next following July 31, October 31 and January 31, respectively.

SECTION 7: Individuals Engaged in More than one occupation: In the event an individual is engaged in more than one occupation or an occupation which requires working in more than one political subdivision during the calendar year, the priority of claim to collect the tax shall be in the following order: First, the political subdivision in which the individual maintains his principal office or is principally employed; Second, the political subdivision in which the individual resides and works, if a like tax is levied by that political subdivision; Third, the political subdivision in which the individual is employed and which imposes the tax nearest in miles to the individual's home. The place of employment shall be determined as of the day the individual first becomes subject to a like tax during the calendar year. Any employer to whom an employee shows a receipt for a like tax for the calendar year from other political subdivision or employer shall not be required to deduct this tax from the employees wages but shall include such employee on his return by setting forth his name, address and the identification of the other political subdivision to whom the tax was paid or the employer who deducted the tax.

SECTION 8: Self-Employed Individuals: All self-employed individuals engaged in any occupation within Middlesex Township shall be required to comply with this ordinance and to pay the tax to the collector on April 30 of each year or as soon thereafter as he engages in an occupation.

SECTION 9: Employees and self-employed individuals residing beyond the geographical limits of Middlesex Township: All employers and self-employed individuals residing or having their place of business outside Middlesex Township but who engage in any occupation within Middlesex Township, do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this ordinance with the same force and effect as though they were residents of Middlesex Township. Further, any individual engaged in an occupation within Middlesex Township and an employee of a non-resident employer may for the purpose of this ordinance be considered a self-employed person and in the event this tax is not paid Middlesex Township shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

SECTION 10: Administration of Tax:

(A) It shall be the duty of the collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received.

(B) The collector is hereby charged with the administration and enforcement of this ordinance and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this ordinance, including provisions for the examination of the payroll records of any employer subject to this ordinance; the examination and correction of any return made in compliance with this ordinance; and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the collector shall have the right to appeal to the Court of Common Pleas of Cumberland County as in other cases provided.

(C) The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer; or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the collector the means, facilities and opportunity for such examination.

SECTION 11: Suit for Collection:

(A) In the event any tax under this ordinance remains due or unpaid thirty (30) days after the due date above set forth, the collector may sue for the recovery of such tax due or unpaid together with interest and penalty.

(B) If for any reason the tax is not paid when due, interest at the rate of six (6%) per cent on the amount of said tax shall be calculated beginning with the due date of said tax and a penalty of five (5%) per cent shall be added to the flat rate of said tax for non-payment thereof. Where suit is brought for the recovery of this tax the individual liable therefor shall in addition be responsible and liable for the costs of collection.

SECTION 12: Fine and Penalty: Whoever makes any false or untrue statement on any return required by this ordinance, or who refuses inspection of his books, records or accounts in his custody and control in order to determine the number of employees subject to this tax who are in his employment, or who fails or refuses to file any return required by this ordinance, or fails or refuses to pay the tax herein levied, shall, upon conviction before any District Justice of the Peace, be sentenced to pay a fine of not more than Three Hundred ($300.00) Dollars for each offense, and in default of payment of said fine to be imprisoned in Cumberland County Prison for a period not exceeding thirty (30) days for each offense. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refused to file a return required by this ordinance.

SECTION 13: Validity: The provisions of this ordinance are severable and if any of its provisions shall be held invalid or unconstitutional the decision of the Court shall not affect or invalidate any of the remaining provisions. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid, or unconstitutional provision had not been included herein.

SECTION 14: Saving Clause:

(A) Nothing contained in this ordinance shall be construed to empower Middlesex Township to levy and collect the tax hereby imposed on any occupational privilege not within the taxing power of Middlesex Township under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

(B) If the tax hereby imposed under the provisions of this ordinance shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the Court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other individuals as herein provided.

SECTION 15: Effective Date: This ordinance shall become effective January 1, 1975 and remain in force and effect until repealed.

ENACTED AND ORDAINED this 11 day of December, 1974.

BOARD OF SUPERVISORS
MIDDLESEX TOWNSHIP

Albert M Shaver

ATTEST:

David C Wetzel

A. E. Preston
Secretary

Robert M Eppley