

ARTICLE 349
Business Privilege Tax

349.01	Title.	349.10	Suits for tax; interest and penalties.
349.02	Definitions.	349.11	Disposition of tax.
349.03	Authority to levy and collect tax.	349.12	Prohibited levies.
349.04	Imposition and rates of tax.	349.13	Severability.
349.05	Determination of gross receipts.	349.14	Effective date.
349.06	Returns.	349.15	Returns to be confidential.
349.07	Payments.	349.16	Payment under protest.
349.08	Assessment of tax; enforcement; appeals.	349.99	Penalty.
349.09	Appeal Board.		

CROSS REFERENCES

Power to tax - see Act 511 (53 P. S. §6901-6924)

Mercantile license tax - see LIC. & TAX, Art. 333

349.01 TITLE.

This article shall be known and cited as the "Business Privilege Tax Ordinance".
(Ord. 4726 §1. Passed 12-18-75.)

349.02 DEFINITIONS.

As used in this article, the following words and phrases, unless the context clearly indicates a different meaning, shall have the meanings set forth below:

- (a) "City" means the City of Williamsport.
- (b) "Person" means every natural person, partnership, association, corporation, estate, trust or other form of organization. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to a partnership means the partners thereof, as applied to an association means the members thereof, as applied to an estate or trust means the fiduciary thereof, and as applied to a corporation and unincorporated association means the officers thereof.
- (c) (1) "Business" means carrying on or exercising, whether for gain or profit or otherwise within the City, any trade, business, including but not limited to financial business as hereinafter defined, profession, vocation, service, construction, communication or commercial activity, or rendering services from or attributable to an office or business in the City.
- (2) "Business" does not include the following: Any business which is subject to the City mercantile tax (Article 333) on its entire gross receipts or to that portion of its gross receipts which may be subject to the City mercantile tax; the business of any political subdivision, public utility or nonprofit corporation or unincorporated association not conducting any regular or established busi-

ness competing commercially with any other person subject to the tax hereby imposed; any employment for a wage or salary; or any business upon which the power to levy a tax is withheld by law.

- (d) "Financial business" means the services and transactions of banks and bankers, trust credit and investment companies, where not prohibited by law, holding companies, dealers and brokers in money, credits, commercial paper, bonds, notes, securities and stocks, monetary metals, factors and commission merchants.
- (e) "License year" means the twelve month period beginning January 1 of the filing year, except that any person who regularly keeps books on a fiscal year basis and files Federal tax returns on such fiscal year basis may use that period as the taxable year.
- (f) "Gross receipts" mean cash, credits, property of any kind or nature, received in or allocable or attributable to the City from any business, or services rendered, or commercial or business transaction had within the City, without deduction therefrom on account of the cost of materials used, labor, service or other cost, interest or discount paid, or any other expense. Gross receipts includes both cash and credit transactions.

Gross receipts excludes:

- (1) In the case of a financial business, the cost of securities and other property sold, exchanged, paid at maturity or redeemed and moneys or credits received in repayment of advances, credits and loans, but not to exceed the principal amount of such advances, credits and loans, and also excludes deposits.
 - (2) In the case of a broker, on commissions paid by him to another broker on account of a purchase or sales contract initiated, executed or cleared in conjunction with such other broker.
 - (3) Receipts or that portion thereof attributable to interstate or foreign commerce or to an office or place of business regularly maintained by the taxpayer, outside the limits of the City and not for the purpose of evading payment of this tax and those receipts which the City is prohibited from taxing by law. Such receipts shall be segregated as set forth in Section 349.05(d).
 - (4) The first one thousand dollars (\$1,000) of such receipts.
 - (5) Receipts from rental income from real estate reportable by any person on Federal tax form schedule "E". This exclusion as set forth in this subsection (f)(5) is retroactive to January 1, 1988, and will expire on December 31, 1992.
- (g) "Treasurer" means the Treasurer of the City.
 - (h) "Temporary, seasonal or itinerant business" means any business that is conducted at one location for less than sixty consecutive calendar days.
 - (i) "License Tax Officer" means the person authorized and empowered by Council to collect the taxes imposed hereby and to enforce the provisions of this article.
 - (j) "Actual place of business" or "place of business" means any location where a business is conducted for a period in excess of five days.
 - (k) "Services rendered within the City" means services in which any event forming a part of the service performed occurs within the City.
(Ord. 4726 §2. Passed 12-18-75; Ord. 4872 §1. Approved 12-23-77;
Ord. 5553 §1-2. Approved 5-21-92.)

349.03 AUTHORITY TO LEVY AND COLLECT TAX.

The City hereby imposes a business privilege tax for the license year 1978 and thereafter in the manner and at the rate hereinafter set forth. Except as hereinafter provided, such tax shall be in addition to any other tax levied and collected under any existing ordinance. This ordinance is enacted under the authority of the Act of December 31, 1965, P.L. 1257, known as "The Local Tax Enabling Act" as amended. (Act 511.)
(Ord. 4872 §2. Approved 12-23-77.)

349.04 IMPOSITION AND RATES OF TAX.

(a) Imposition of Tax. For the year beginning January 1, 1978, and each year thereafter, the City hereby imposes an annual business privilege tax and registration requirements in the manner and at the fees and rates hereinafter set forth. Such tax shall continue in force on a yearly basis without annual re-enactment unless the rate of the tax is subsequently changed.
(Ord. 4872 §3. Approved 12-23-77.)

(b) Registration Required: Application. Every person desiring to continue to engage in or hereafter begin to engage in a business, whether or not he maintains a place of business within the City shall, on or before the commencement of the license year or prior to commencing business in such license year, make application for registration for each place of business in the City with the License Tax Officer. Such registration shall be made only once by the completion of an application furnished by the License Tax Officer and the payment of a fee of two dollars (\$2.00) to the City Treasurer. 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. Each applicant shall receive a certificate of registration from the City Treasurer which shall not be assignable. In the case of loss, defacement or destruction of such certificate, the person to whom the certificate was issued shall apply to the License Tax Officer for a new certificate for which a fee of fifty cents (50¢) shall be charged.

(c) Rate of Tax. Every person engaging in a business in the City, whether or not he maintains a place of business within the City, shall pay an annual business privilege tax for the license year at the rate of four mills on each dollar of the gross receipts derived from all services rendered within the City. [Ord. 5863]
(Ord. 5303 §1. Approved 12-19-85. Ord. 5705 §1. Approved 12-19-96; Ord. 5766 §I. Approved 1217-98; Ord. 5863. Approved 12-28-01.)

349.05 DETERMINATION OF GROSS RECEIPTS.

(a) Every person subject to the tax hereby imposed who has commenced his business at least one full year prior to the beginning of the license year, shall determine his gross receipts for the license year from his actual gross receipts for the preceding year or for the last fully completed fiscal year. (Ord. 4872 §4. Approved 12-23-77.)

(b) Every person subject to the tax hereby imposed, who has commenced his business less than one full year prior to the beginning of the license year, shall determine his annual gross receipts for the license year by dividing his actual gross receipts by the number of months in business and multiplying by twelve.

(c) Every person subject to the tax hereby imposed who commences his business subsequent to the beginning of the license year, shall determine his gross receipts for the license year by multiplying his actual gross receipts for the first month he engages in business by the number of months he engages in business for the license year.

(Ord. 4726 §5. Passed 12-18-75.)

(d) Where a receipt in its entirety cannot be subjected to the tax imposed by this article by reason of the provisions of the Constitution of the United States, or any other provisions of law, including the exemptions within this article, the License Tax Officer shall establish rules and regulations and methods of allocation and evaluation so that only that part of such receipt which is properly attributable and allocable to the doing of business in the City shall be taxed hereunder. The License Tax Officer may make such allocation with due regard to the nature of the business concerned on the basis of millage division of the receipt according to the number of jurisdictions in which it may be taxed, the ratio of the value of the property or assets of the taxpayer owned and situated, or any other method or methods of calculation other than the foregoing, calculated to effect a fair and proper allocation. The rules and regulations established shall be in writing and a copy filed with the City Clerk.

(e) Every person who ceases to carry on a business during any tax year after having paid the business privilege tax for the entire year shall, upon making proper application to the License Tax Officer, be entitled to receive a refund of the pro-rata amount of the tax paid based upon the period of time he was not in business during the license year. In the event that a person who discontinues business during any tax year does so before payment of his tax becomes due for such tax year, he shall be permitted to apportion his tax for such tax year and shall pay an amount to be computed by multiplying his gross receipts for the preceding full calendar year by a fraction whose numerator shall be the number of months such person was in business during the tax year and whose denominator shall be twelve.

(Ord. 4872 §4. Approved 12-23-77.)

(f) Every person subject to the tax hereby imposed who engages in a business temporary, seasonal or itinerant in nature shall determine his gross receipts for the license year from his actual gross receipts for the license year. (Ord. 4726 §5. Passed 12-18-75.)

349.06. RETURNS.

(a) Every return shall be made upon a form prescribed by the City License Tax Officer. Every person making a return shall certify the correctness thereof.

(Ord. 4726 §6. Passed 12-18-75.)

(b) Every person subject to the tax hereby imposed who had commenced his business at least one full year prior to the beginning of the license year, shall, on or before April 15 of the license year, file with the License Tax Officer a return setting forth his name, his business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts for the preceding calendar or fiscal year and the amount of tax due.

(c) Every person subject to the tax hereby imposed who had commenced his business less than one full year prior to the beginning of the license year, shall, on or before April 15 of the license year, file with the License Tax Officer a return setting forth his name, his

business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts for the preceding calendar or fiscal year and the amount of tax due. (Ord. 4872 §5. Approved 12-23-77.)

(d) Every person subject to the tax hereby imposed who commences business subsequent to the beginning of the license year, shall, within forty days from the date of commencing such business, file a return with the License Tax Officer setting forth his name, his business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts for the preceding calendar year and the amount of tax due.

(e) Every person subject to the tax hereby imposed who engages in a business temporary, seasonal or itinerant in nature shall, within seven days from the date he completes such business, file with the License Tax Officer a return setting forth his name, his business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts for the period he engages in business during the license year and the amount of the tax due.
(Ord. 4726 §6. Passed 12-18-75.)

349.07 PAYMENTS.

At the time of filing a return the person making the same shall pay the amount of tax shown as due thereof to the License Tax Officer.

All taxes, interest and penalties imposed under the provisions of this article shall be payable to the License Tax Officer who, upon payment of the tax imposed together with any interest and penalties due thereon, shall give to the person paying the same a receipt therefor. (Ord. 4872 §6. Approved 12-23-77.)

349.08 ASSESSMENT OF TAX; ENFORCEMENT.

(a) The License Tax Officer is hereby charged with the administration and enforcement of the provisions of this article 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 article. Such rules and regulations shall be in writing and a copy filed with the City Clerk.

(b) If the License Tax Officer is not satisfied with the return made by any taxpayer or supposed taxpayer, or if any taxpayer or supposed taxpayer shall neglect or refuse to file any return required by this article, the License Tax Officer is hereby authorized and empowered to determine or redetermine 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 he or his representative or any duly authorized tax examiner of the City is authorized to examine any books, papers and records of any such person in order to verify the accuracy of any return or payment made under the provisions hereof, or to ascertain whether the taxes imposed by this article have been paid; and every such person is hereby required to submit his books, papers and records to such examination upon request of the License Tax Officer and to give him or his representative or any duly authorized tax examiner of the City the means, facilities and opportunity for such examination. The License Tax Officer is hereby authorized and directed to

make and keep such records and prepare such forms 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 to secure payment of the tax imposed by this article to the City.

(c) If any taxpayer or supposed taxpayer shall neglect or refuse to file any return required by this article, or pay the tax imposed by this article, or if any person pays less than the correct amount of the tax due from him, the License Tax Officer may estimate or determine the tax due by such person and the amount of interest and penalties thereon. (Ord. 4726 §8. Passed 12-18-75.)

(d) Any taxpayer aggrieved by any determination, estimate or redetermination by the License Tax Officer may appeal such decision within thirty days to the Appeal Board as established in Section 349.09. (Ord. 4872 §7. Approved 12-23-77.)

349.09 APPEAL BOARD.

Council shall from time to time establish by separate ordinance a Board of Appeals which may be a separate board for the City alone or may be a combined board for the City and the Williamsport Area School District, to hear appeals in any cases whereby a taxpayer may dispute the validity or amount of the City's claim for tax under this article. The membership, powers, duties and procedures of and before such Appeal Board shall be such as may be provided for in the ordinance establishing such Appeal Board. (Ord. 4872 §8. Approved 12-23-77.)

349.10 SUITS FOR TAX; INTEREST AND PENALTIES.

(a) All taxes, interest and penalties due and unpaid under this article, shall be recoverable by the City Solicitor as other debts due the City are now by law recoverable.

(b) All taxes due under this article shall bear interest at the rate of one-half percent per month, or fractional part thereof, from the day they are due and payable until paid. (Ord. 4726 §9. Passed 12-18-75.)

(c) If any taxpayer neglects or refuses to make any return or payment as herein required, a penalty of ten percent of the amount of tax due shall be added by the License Tax Officer and collected by him. (Ord. 4872 §9. Approved 12-23-77.)

349.11 DISPOSITION OF TAX.

All taxes, interest and penalties collected or received under the provisions of this article shall be paid into the City Treasury for the use and benefit of the City. (Ord. 4726 §10. Passed 12-18-75; Ord. 4872 §10. Approved 12-23-77.)

349.12 PROHIBITED LEVIES.

Nothing contained in this article shall be construed to empower the City to levy and collect the taxes hereby imposed on any person or any business, or any portion of any business, trade, occupation or profession not within the taxing power of the City under the Constitution of the United States and the Constitution and the laws of the Commonwealth of Pennsylvania. (Ord. 4726 §11. Passed 12-18-75; Ord. 4872 §11. Approved 12-23-77.)

349.13 SEVERABILITY.

If any provision of this article, or the application thereof to any person or circumstances is held invalid, the remainder of this article and the application of such provision to other persons or circumstances shall not be affected thereby, and to this end the provisions of this article are hereby declared to be severable. (Ord. 4726 §12. Passed 12-18-75; Ord. 4872 §12. Approved 12-23-77.)

349.14 EFFECTIVE DATE.

The provisions of the tax levied herein shall apply to the levy, assessment and collection of business privilege taxes in the year 1986 and thereafter. Nothing herein contained shall be deemed to preclude, impair or affect the levy, assessment and collection of taxes for or during years prior to 1986, under and in accordance with the provisions of the article in effect during such years. (Ord. 5303 §2. Approved 12-19-85.)

349.15 RETURNS TO BE CONFIDENTIAL.

Any information gained by the License Tax Officer or any other official or agent of the City as a result of any returns, investigations or verifications required or authorized by this article, shall be confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law. Any disclosure of any such information, contrary to the provisions of this section, shall constitute a violation of this article. (Ord. 4726 §14. Passed 12-18-75; Ord. 4872 §14. Approved 12-23-77.)

349.16 PAYMENT UNDER PROTEST.

The License Tax Officer is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the City in any case where the taxpayer disputes the validity or amount of the City's claim for tax. A statement that such payment is under protest and an appeal to the Board of Appeals shall accompany such payment. If it is thereafter determined that the City has been overpaid, the amount of the overpayment shall be refunded to the taxpayer. The License Tax Officer shall immediately forward such appeal to the Board of Appeals. (Ord. 4872 §15. Approved 12-23-77.)

349.99 PENALTY.

Whoever fails, neglects or refuses to comply with any of the provisions of this article, or of any regulations or requirements made pursuant thereto and authorized thereby, or whoever knowingly makes any false or untrue statements on his return shall be fined not more than three hundred dollars (\$300.00) for each offense or imprisoned not more than ninety days, or both. The fine imposed by this section shall be in addition to any other penalty imposed by any other section of this article. (Ord. 4726 §16. Passed 12-18-75.)