

OFFICIAL

BOROUGH OF AVALON

ORDINANCE NO. 1169

AN ORDINANCE OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY, PENNSYLVANIA, LEVYING A TAX FOR GENERAL REVENUE PURPOSES UPON THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE CORPORATE LIMITS OF THE BOROUGH OF AVALON, AT THE RATE OF \$10.00 PER YEAR; 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 THE SAME TO THE DESIGNATED TAX COLLECTOR; CONFERRING AND IMPOSING POWERS AND DUTIES OF ADMINISTRATION AND COLLECTION ON THE DESIGNATED TAX COLLECTOR; REQUIRING THE FILING OF RETURNS; AND IMPOSING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, Council of the Borough of Avalon deems it necessary for General Revenue purposes to levy and collect a tax upon the privilege of engaging in an occupation within the Borough of Avalon; and

WHEREAS, the Act of December 31, 1965, P.L. 1257, Act 511, as amended, entitled Local Tax Enabling Act, authorizes the levying of such a tax.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE BOROUGH OF AVALON, AND IT IS HEREBY SO ORDAINED AND ENACTED BY AND WITH THE AUTHORITY OF THE SAME:

SECTION I. This Ordinance shall be known and may be cited as the Occupational Privilege Tax Ordinance.

SECTION II. As used in this Ordinance, the following words shall have the following meanings:

1. "Income from all sources or Compensation" shall mean salaries, wages, commissions, tips, bonuses, fees, gross receipts, or any other earned income;

2. "Employer" shall mean any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency, or any other body engaged in business or situated in the Borough of Avalon, employing one or more employees in any occupation;

3. "Occupation" shall include any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, for which any compensation or income is received;

4. "Tax" shall mean the tax levied by this Ordinance;

5. "Taxpayer" shall mean any natural person liable for the tax levied by this Ordinance; and

6. "Tax Collector" shall mean the person or persons or public employée, or firm or agency appointed by the Council of the Borough of Avalon to collect and administer the Occupation Privilege Tax levied by this Ordinance.

Section III. A tax for general revenue purposes in the amount of Ten (\$10.00) Dollars is hereby levied upon the privilege of engaging in an occupation within the Borough of Avalon for the period commencing July 1, 1986, and ending December 31, 1986, and for each subsequent year from the effective date of this Ordinance. Each natural person who exercises such privilege for any length of time in any year beginning with July 1, 1986, shall pay the tax in accordance with provisions hereof.

Section IV.

1. Every employer not registered under the provisions of the Earned Income Tax Ordinance of the Borough of Avalon,

shall, within fifteen (15) days after the effective date of this Ordinance, or within fifteen (15) days after first becoming an employer, register with the Tax Collector, the employer's name, address and such other information as the Tax Collector shall require.

2. As to each taxpayer who is employed for any length of time in the Borough of Avalon from July 1, 1986, to and including September 30, 1986, and for any length of time during the period beginning October 1, 1986, and ending December 31, 1986, and for whom no prior deduction has been made, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the Tax Collector, and pay to said Tax Collector the full amount of all taxes deducted for each such period on or before October 31, 1986, and January 31, 1987, respectively.

For the calendar year beginning January 1, 1987, and for succeeding years as long as this tax is in existence, as to each taxpayer employed for any length of time on or before March 31, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the Tax Collector, and pay to said Collector the full amount of all such taxes on or before April 30, 1987. Thereafter, as to each taxpayer for whom no prior deduction has been made for the then current year, who is employed for any length of time in any of the three-month periods ending June 30, September 30, and December 31 of such current year, each

employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the Tax Collector, and pay to said Tax Collector the full amount of all such taxes deducted for each such three-month period on or before July 31, October 31, and January 31 of the succeeding year, respectively.

3. Any employer who discontinues business or ceases operation before December 31 of any year during which the tax is in effect, shall, within fifteen (15) days of discontinuing business or ceasing operation, file a return hereinabove required and pay the tax to the Tax Collector.

4. The failure of any employer to deduct the tax shall not relieve the employee from the duty to file a return and pay the tax. Any employer who fails to deduct the tax as required by this Section, or who fails to pay such tax to the Tax Collector, shall be liable for such tax in full, without deduction of the fee hereinafter provided, as though the tax had originally been levied against such employer.

5. Each employer may deduct and retain a fee equal to two (2%) percent of the total amount of tax collected through the employer pursuant to this Section.

SECTION V. Every taxpayer who is self-employed or whose tax for any other reason is not collected under SECTION IV of this Ordinance shall file a return on a form prescribed by the Tax Collector and shall pay the tax directly to the Tax Collector.

Each such taxpayer who first becomes subject to the tax during the period from the effective date of this Ordinance to and including September 30, 1986, shall file the return and pay the tax on or before October 31, 1986, and each such taxpayer who first becomes subject to the tax during the period beginning October 1, 1986, and ending December 31, 1986, shall file the return and pay the tax on or before January 31, 1987.

For the calendar year 1987 and for succeeding years as long as this tax is in existence, each such taxpayer who first becomes subject to the tax on or before March 31, shall file the return and pay the tax on or before April 30, and each such taxpayer who first becomes subject to the tax on or before June 30, shall file the return and pay the tax on or before July 31, and each such taxpayer who first becomes subject to the tax on or before September 30, shall file the return and pay the tax on or before October 31, and each such taxpayer who first becomes subject to the tax on or before December 31, shall file the return and pay the tax on or before January 31, of the ensuing year.

SECTION VI. Every individual shall be subject to the payment of the tax on his principal occupation and his principal employer shall deduct the tax. Evidence of the deduction must be furnished to the secondary employer who shall not make any additional deduction, but must notify the Tax Collector of the employee's name, address, account number and original deduction.

SECTION VII. Both resident and non-resident taxpayers shall by virtue of engaging in an occupation within the Borough of Avalon , be subject to the tax of this Ordinance.

SECTION VIII.

1. It shall be the duty of the Tax Collector to accept and receive payment of this tax and to keep a record thereof showing the amount received from each employer and self-employed individual, together with the date received. The Tax Collector shall make reports and accountings to the Borough of Avalon monthly;

2. The Tax Collector shall prescribe and issue all forms necessary for the administration of the tax;

3. The Council of the Borough of Avalon may adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration of this Ordinance, including, but not limited to, refunds, examinations, corrections and investigations of returns, production of evidence and records;

4. The Tax Collector and agents designated by him are hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return or to ascertain the tax due if no return is made.

SECTION IX: The Tax Collector shall collect, by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Ordinance and unpaid. If, for any reason, any tax is not paid when due, interest at the rate of six percent (6%) per year on the amount of unpaid tax and an additional penalty of one-half of one percent (1/2 of 1%) of the amount of unpaid tax for each month or fraction of month during which the tax remains unpaid, shall be added and collected. Whenever suit is brought for the recovery

of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection as well as for interest and penalties. The Tax Collector may accept payment under protest of the tax claimed by the Borough of Avalon in any case where any person disputes the Borough of Avalon's claim for tax. If a Court of competent jurisdiction thereafter decides that there has been overpayment to the Tax Collector, the Tax Collector shall refund the amount of the overpayment to the person who paid under protest.

SECTION X. The Tax Collector before entering upon his official duties shall give and acknowledge a bond to the Borough of Avalon in such an amount which the Council of the Borough of Avalon may deem sufficient.

SECTION XI. The Tax Collector shall receive such compensation for his services and expenses as shall be determined by the Council of the Borough of Avalon from time to time.

SECTION XII. Any person who violates any provision of this Ordinance or any regulation adopted pursuant to it shall upon conviction thereof before a District Magistrate, be subject to a fine of not more than three hundred dollars (\$300.00), or in default of payment of such fine, shall be subject to imprisonment in the Allegheny County Jail for a period not to exceed thirty (30) days.

SECTION XIII. This tax shall not apply to any subject of tax or person not within the taxing power of the Borough of Avalon, under the Constitution of the United States and the Laws and Constitution of Pennsylvania. If a final decision of a Court of competent jurisdiction holds any provision of this Ordinance

to be illegal or unconstitutional, the other provisions of this Ordinance shall remain in full force and effect. The intention of the Council of the Borough of Avalon is that the provisions of this Ordinance shall be severable and that this Ordinance would have been adopted if any such illegal or unconstitutional provisions had not been included.

SECTION XIV. This Ordinance shall become effective as per provisions of the Local Tax Enabling Act of 1965, Dec. 31, P.L. 1257, as amended, July 1, 1986, and continue until December 31, 1986, and thence continuing on a calendar year basis beginning January 1, 1987, and ending December 31, 1987, which tax shall continue in force on a calendar year basis without reenactment until such time as the Council of the Borough of Avalon shall change the rate of the tax or by appropriate Ordinance repeal said tax.

SECTION XV. Any Ordinance, or part thereof, conflicting with the provisions of this Ordinance shall be, and the same is hereby repealed, insofar as the same affects this Ordinance.

ORDAINED AND ENACTED this 15th day of April, 1986.

ATTEST:

BOROUGH OF AVALON

Etal C. Carlin  
Secretary

By: Henry W. Deane  
President of Council

EXAMINED AND APPROVED this 15th day of April, 1986.

Nicholas J. Guard  
Mayor