

ORDINANCE NO. 154, 2005

AN ORDINANCE OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA, AMENDING PART 4, ENTITLED "OCCUPATIONAL PRIVILEGE TAX" OF CHAPTER XXIX, ENTITLED "TAXATION, SPECIAL" OF THE TOWNSHIP OF TILDEN CODE OF ORDINANCES BY IMPOSING AN EMERGENCY AND MUNICIPAL SERVICES TAX ON PERSONS ENGAGED IN ANY OCCUPATION WITHIN THE TOWNSHIP

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Tilden, Berks County, Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

Section 1. Part 4 entitled "Occupational Privilege Tax" of Chapter XXIX, entitled "Taxation, Special", of the Township of Tilden Code of Ordinances is hereby amended in its entirety so as to hereafter read as follows:

"Part 4

Emergency and Municipal Services Tax

Section 401. Authority for Enactment. This Part is enacted under authority of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 53 P.S. §6901, et seq. (1982) as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

Section 402. Definitions. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

Compensation. Salaries, wages, commissions, tips, bonuses, fees, gross receipts, or any other earned income.

Employer. Any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency or any other body engaged in business or situated in the Township of Tilden,

Berks County, Pennsylvania, employing one or more employees engaged in any occupation other than domestic servants.

Occupation. Any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, for which monetary compensation is received or charged.

Emergency and Municipal Services Tax Collector. Tax Collector for the Township of Tilden.

Taxpayer. Any natural person liable for the tax levied by this Part.

Section 403. Imposition of Tax. A tax for police, fire and emergency services, road construction and/or maintenance; or reduction of property taxes, in the amount of Thirty Dollars and 00/100 Dollars (\$30.00), is hereby imposed upon the privilege of engaging in an occupation within the Township of Tilden, Berks County, Pennsylvania, in the year 2005 after the effective date of this Part, and in each following calendar year. Each natural person who exercises such privilege for any length of time in any calendar year beginning with the year 2005, after the effective date of this Part, shall pay the tax in accordance with the provisions hereof; provided the tax hereby levied shall not be imposed upon any natural person whose total income during the taxable year is any figure less than or equal to Twelve Thousand and 00/100 Dollars (\$12,000).

Section 404. Collection Through Employers.

(a) Each employer shall register with the Emergency and Municipal Services Tax Collector ("Tax Collector") the employer's name, address and other information the Tax Collector may require within fifteen (15) days after the effective date of this Part or within fifteen (15) days after first becoming an employer.

(b) For each taxpayer employed for any length of time after the effective date of this Part and on or before March 31, of the current tax 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 taxes deducted on or before April 30 of the current tax year. For each taxpayer for whom no prior deduction has been made, who is employed after the effective date of this Part and in any of the three (3) month periods ending June 30, September 30 and December 31 of the current tax 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 said collector the

full amount of all taxes deducted, on or before July 31, October 31 of the current tax year, or January 31 of the following year, respectively.

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

(d) 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 commission hereinafter provided, as though the tax had originally been levied against such employer.

(e) As to employees who present official receipts evidencing prior payment of the tax imposed hereby either directly or by collection through employers, the employer shall not deduct the tax but shall file an employee exemption certificate with the tax collector and maintain adequate records concerning such employees.

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

Section 405. Direct Payment by Taxpayers. Every taxpayer who is self-employed or whose tax for any other reason is not collected under Section 404 of this Part shall file a return on a form prescribed by the Tax Collector and shall pay the tax directly to said collector. Each such taxpayer who first becomes subject to the tax after the effective date of this Part, and on or before March 31 of the current tax year, shall file the return and pay the tax on or before April 30 of the current tax year, and each such taxpayer who first becomes subject to the tax after March 31 of the current tax year, shall file the return and pay the tax on or before July 31 or October 31 of the current tax year, or January 31 of the following year, whichever of such payment dates first occurs at least thirty (30) days after the taxpayer becomes subject to the tax.

Section 406. Nonresident Taxpayers. Both residents and nonresident taxpayers shall, by virtue of engaging in an occupation within the Township of Tilden, Berks County, Pennsylvania, be subject to the tax and the provisions of this Part.

Section 407. Administration and Enforcement. The Tax Collector shall collect and receive the taxes, interest, fines and penalties imposed by this Part and shall maintain records showing the amounts received and the dates such amounts were received. The Tax Collector shall prescribe and issue all forms necessary for the administration of the tax and may adopt and enforce regulations relating to any matter pertaining to the administration of this Part. The Tax Collector and agents designated by him may examine the records of any employer and/or supposed employer or of any taxpayer in order to ascertain the tax due or verify the accuracy of any return. Every employer or supposed employer and every taxpayer or supposed taxpayer shall give the Tax Collector and any agent designated by him all means, facilities and opportunities for the examination hereby authorized.

Section 408. Collection. The Tax Collector shall collect by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Part and unpaid. If for any reason, any tax is not paid when due, penalty at the rate of six percent (6%) per year on the amount of unpaid taxes and additional interest of one-half of one percent ($1/2$ of 1%) of the amount of the 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 cost of collection as well as for interest and penalties. The Tax Collector may accept payment under protest of the tax claimed by the Township of Tilden, Berks County, Pennsylvania, in any case where any person disputes the Township of Tilden's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the Tax Collector, such Tax Collector shall refund the amount of the overpayment to the person who paid under protest. Any action instituted for such judicial determination shall be instituted within two (2) years of the last day of the period for which the tax is disputed or claim made. All refunds shall be made in conformity with the procedure prescribed by the Board of Supervisors of the Township of Tilden, Berks County, Pennsylvania.

Section 409. Penalties. Any person, partnership, corporation or other entity who or which has violated or permitted the violation of the provisions of this Part shall, upon conviction thereof, in an action brought before a District Justice in the same manner provided for the enforcement of summary offences under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of at least One Hundred and 00/100 Dollars (\$100.00) and not more than One Thousand and 00/100 Dollars (\$1,000.00) and costs of prosecution and/or to undergo imprisonment to the extent permitted by law for the punishment of summary offences. The Township Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.

R.C.P. No. 83(c) (relating to trial in summary cases). Each day that a violation continues shall constitute a separate offense.

Section 410. Severability. If any provision, sentence, clause, section or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Part. It is hereby declared as the intent of the Board of Supervisors of the Township that this Part would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein."

Section 2. All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance.

Section 3. This Ordinance shall become effective five (5) days from the date of enactment.

Section 4. The Code of Ordinances of the Township of Tilden , Berks County, Pennsylvania, as amended, shall be and remain unchanged and in full force and effect except as amended, supplemented and modified by this Ordinance. This Ordinance shall become a part of the Code of Ordinances of the Township of Tilden, Berks County, Pennsylvania, as amended, upon adoption.

DULY ENACTED AND ORDAINED this 3rd day of January, 2005.

BOARD OF SUPERVISORS
TOWNSHIP OF TILDEN

Troy R. Att
Russell H. W. W.

Attest: Cheryl A. Haus
708484