

ORDINANCE NO. 182, 2007

AN ORDINANCE OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA, REPEALING THE EMERGENCY AND MUNICIPAL SERVICES TAX; ESTABLISHING THE LOCAL SERVICES TAX ON PERSONS ENGAGED IN ANY OCCUPATION IN 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 "Emergency and Municipal Services Tax", of Chapter XXIX, entitled "Taxation, Special", of the Township of Tilden Code of Ordinances is hereby amended and restated in its entirety as follows:

"Part 4

Local Services Tax

Section 401. Authority of Enactment. This Part is enacted under authority of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 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 meanings indicated, unless a different meaning clearly appears from the context:

COMPENSATION - salaries, wages, commissions, tips, bonuses, fees or any other earned income and net profits.

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 (1) or more employees engaged in any occupation.

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.

LOCAL SERVICES TAX COLLECTOR - Tax Collector of Tilden Township.

RESERVE COMPONENT OF THE ARMED FORCES - The United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, The Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

TAXPAYER - any natural person liable for the tax levied by this Part.

TOWNSHIP - Township of Tilden, Berks County, Pennsylvania.

Section 403. Imposition of Tax. A local services tax for emergency services (which shall include emergency medical services, police services, and/or fire services), road construction and/or maintenance, reduction of property taxes, and property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa. C.S. Ch. 85 Subch. F, in the amount of Fifty-Two Dollars (\$52.00), is hereby imposed upon a Taxpayer engaging in an occupation within the Township, in the year 2008 and in each succeeding calendar year in which this tax is in effect. Each natural person who exercises such privilege for any length of time in any calendar year beginning with the year 2008 shall pay the tax in accordance with the provisions hereof.

Section 404. Nonresident Taxpayer. Both residents and nonresident Taxpayers shall, by virtue of engaging in an occupation within the Township of Tilden, shall be subject to the tax and the provisions of this Part.

Section 405. Exemptions. The following persons may apply and shall be eligible for an exemption from the imposition of the Local Services Tax:

a. All Taxpayers whose total Compensation from all sources is less than Twelve Thousand and 00/100 Dollars (\$12,000.00) per annum.

b. Any person who served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service and as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent (100%) permanent disability.

c. Any person who serves as a member of a Reserve Component of the Armed Forces and is called to active duty at any time during the taxable year.

Section 406. Exemption Application. Taxpayers seeking to claim an Exemption for the Local Services Tax shall annually file an Exemption Certificate with the Township and with the Employer.

Section 407. Collection Through Employers.

a. Each Employer shall register with the Local 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. Each Employer shall assess each Taxpayer a pro-rata share of the tax for each payroll period. The pro-rata share shall be determined by dividing the tax levied by the number of payroll periods established by the Employer for the calendar year.

c. For each Taxpayer employed for any length of time after the effective date of this Part, 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 such Tax Collector the amount of taxes deducted on a quarterly basis as follows: April 30, July 30, October 30 and January 30 for the preceding quarter 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, each Employer shall withhold from the Taxpayer, for the first payroll period after employment, a lump sum equal to the amount of tax that was not withheld from the Taxpayer, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a Taxpayer subject to withholding of the tax under this Part is subsequently severed in that calendar year, the Taxpayer shall be liable for any outstanding balance of tax due and the Township may pursue collection under this Part and the Act.

d. As to Taxpayers who present official receipts evidencing prior payment of the tax imposed hereby either directly or by collection through Employers, the Employer shall not deduct that pro-rata share of the tax but the employer shall withhold from the Taxpayer, for the first payroll period, a lump sum equal to the amount of tax that was not withheld from the Taxpayer to equal the necessary amount due from that Taxpayer to date to equal what all other employees have paid, plus the per payroll amount due for that first payroll

period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees.

e. If a Taxpayer who claimed an exemption for a given calendar year from the tax levied under this Part becomes subject to the tax for the calendar year under this Part, the Employer shall withhold the tax for the remainder of that calendar year. The Employer shall withhold from the Taxpayer, for the first payroll period after receipt of the notification, a lump sum equal to the amount of tax that was not withheld from the Taxpayer due to the exemption claimed by the Taxpayer, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees.

f. 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.

g. The failure of any Employer to deduct the tax as required in this Section shall not relieve the Taxpayer 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.

h. 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 408. Direct Payment by Taxpayers. Every Taxpayer who is self-employed or whose tax for any other reason is not collected under Section 405 of this Part shall file a return on a form prescribed by the Tax Collector and shall pay the tax directly to such collector. Each such Taxpayer who first becomes subject to the tax after the effective date of this Part, shall file a return on a form prescribed by the Tax Collector and pay to such Tax Collector the amount of taxes due and owing on a quarterly basis as follows: April 30, July 30, October 30 and January 30 for the preceding quarter of the current tax year.

Section 409. 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/her 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/her all means, facilities and opportunities for the examination hereby authorized.

Section 410. 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, in any case where any person disputes the Township'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.

Section 411. Refunds. All requests for the refund of overpaid Local Services Tax shall be made in writing to the Tax Collector and shall contain sufficient written evidence, including copies of paystubs, to establish to the Tax Collector that an overpayment has occurred. The Tax Collector shall make a determination on the request for a refund within seventy-five (75) days of the request. All refunds shall be made within seventy-five (75) days of the request. Any appeal of the Tax Collectors determination shall be made directly to the Board of Supervisors of the Township within thirty (30) days of the tax Collectors decision.

Section 412. Penalties.

a. Any person who fails, neglects or refuses to make any declaration or return required by this Part, as amended, any Employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees, any person

who refuses to permit the officer or any agent designated by him to examine his books, records and papers, and any person who knowingly makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part, as amended, shall, upon conviction thereof before any district justice or court of competent jurisdiction in Berks County, Commonwealth of Pennsylvania, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each offense, and costs, and in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty (30) days.

b. The failure of any person to receive or procure forms required for making the declaration or returns required by this Part, as amended, shall not excuse him from making such declaration or return."

SECTION 2. If any sentence, clause, section or part of this Ordinance 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 Ordinance. It is hereby declared as the intent of the Board of Supervisors of Tilden Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 3. 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 4. This Ordinance shall become effective January 1, 2008.

SECTION 5. 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 1st day of December, 2007.

BOARD OF SUPERVISORS
TOWNSHIP OF TILDEN

Troy L. Hall
Russell H. Wulley
Judy E. Romig

Attest: Cheryl A. Haas

MUNICIPAL CERTIFICATION

I, Cheryl A. Haus, Secretary of the TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA, do hereby certify that the foregoing Ordinance # 182,2007 was advertised in the Reading Eagle/Times, a daily newspaper of general circulation in the Township of Tilden, on "10/07", "17/07", "24/07" and was duly enacted and approved as set forth at a Regular Meeting of the Board of Supervisors held on December 1, 2007.

(SEAL)

Cheryl A. Haus
Secretary

Date: 12/1, 2007