

**PENN TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2018 - 2

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PENN TOWNSHIP
ENACTING A LOCAL SERVICES TAX AND REPEALING THE REAL ESTATE TAX
ON REAL PROPERTY.**

WHEREAS, Act No. 2007-7 of the General Assembly of the Commonwealth of Pennsylvania and the Local Tax Enabling Act cited below, authorize a municipality to, in its discretion, by Ordinance, for certain revenue purposes, levy and collect such taxes on occupations and privileges within its' limits.

WHEREAS, the Board of Supervisors of Penn Township desires to levy such a tax.

NOW THEREFORE, BE IT ENACTED AND ORDAINED and it is hereby amending Ordinance 2012-04 adopted by the Penn Township Board of Supervisors as follows:

SECTION 1. AUTHORITY FOR ENACTMENT. This Ordinance is enacted under the authority of the Local Tax Enabling Act, Act No. 511 of December 31, 1965 (P.L. 1257) as amended (53 P.S. 6901 et seq.).

SECTION 2: DEFINITIONS. The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning.

- (a) "Act" means the Local Tax Enabling Act, Act No. 511 of December 31, 1965 (P.L. 1257), as amended (53 P.S. 6901 et seq.).
- (b) "Township" means Penn Township, Cumberland County, Pennsylvania and the area within the limits thereof.
- (c) "Collector" means the entity or person under whose direction the Tax shall be collected, administered, and enforced.
- (d) "Earned income" shall have the same meaning as net profits under Section 13, Division I of the Act (53 P.S. 6913(I)).
- (e) "Employer" means an individual, partnership, association, corporation, governmental body, agency, or other entity employing one or more persons on salary, wage, commission, or other compensation basis, including a self-employed person.
- (f) "Fiscal year" means the twelve-month period beginning January 1 and ending December 31.

- (g) “He”, “his” or “him” means and indicates the singular and plural number as well as male, female, and neuter gender.
- (h) “Individual” means any person, male or female, engaged in any occupation, trade or profession within the limits of Penn Township.
- (i) “Net profits” shall have the same meaning as net profits under Section 13, Division I, of the Act. (53 P.S. 6913(I)).
- (j) “Non-principal Employer” shall mean an employer in a concurrent employment situation who does not pay the largest amount of salary, wage, commission, or other compensation to an employee.
- (k) “Non-principal Occupation” shall mean the occupation of a self-employed person in a concurrent occupation situation from which he does not derive the largest net profit.
- (l) “Occupation” means any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of Penn Township for which compensation is charged or received whether by means of salary, wages, commissions or fees for services rendered.
- (m) “Principal Employer” shall mean an employer in a concurrent employment situation who pays the largest amount of salary, wage, commission or other compensation to an employee.
- (n) “Principal Occupation” shall mean the occupation of a self-employed person in a concurrent occupation situation from which he derives the largest net profit.
- (o) “Reserve component of the armed forces” means 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.
- (p) “Tax” means the Local Service Tax in the amount of fifty-two dollars (\$52.00) levied by this Ordinance pursuant to the Act.
- (q) “Treasurer” means the Treasurer of Penn Township.

SECTION 3: LEVY OF TAX. The Supervisors of Penn Township hereby levies and imposes on each occupation engaged by individuals within the Township during the fiscal year 2013 and each fiscal year thereafter a Local Services Tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township. Such tax shall continue in force on a fiscal year basis without annual re-enactment unless the rate of the tax is subsequently changed. The tax shall be allocated \$5.00 to the Big Spring School District and \$47.00 to Penn Township.

SECTION 4: AMOUNT OF TAX.

- (a) Each occupation as hereunder defined, engaged in within the Township shall be subject to a tax in the amount of fifty-two dollars (\$52.00) per annum, such tax to be paid by the individual so engaged.
- (b) An employee shall pay a pro-rata share of the Tax for each payroll period in which the person is engaging in his occupation. The pro-rata share shall be determined by dividing the Tax levied pursuant to subsection (a) of this Section by the number of payroll periods established by his employer for the fiscal year as provided in Section 5.
- (c) An individual who is self-employed shall pay the tax in its entirety as provided in Section 7 and 8.

SECTION 5: WITHHOLDING AND OTHER DUTIES OF EMPLOYERS.

- (a) Each employer with the Township as well as those employers situated outside the Township, but who engage in business within the Township, is hereby charged with the duty of withholding from each of his employees engaged by him and performing for him within the Township the pro-rata share of the Tax, described in subsection (b) of Section 4, and making a return and payment of the withheld Tax to the Collector within thirty (30) days of the end of each quarter of a fiscal year as described in Section 6.

Further, each employer is hereby authorized to withhold the pro-rata share of the Tax from each employee in his employ, whether such employee is paid by salary, wages or commission and whether or not part of all such services are performed with the Township unless the employee is engaging in concurrent employment with a principal employer or other non-principal employers located in higher priority political subdivisions as described in subsection (c) of this Section or has an exemption certificate on file with the employer and the Collector as described in subsections (b) or (c) of Section 10.

- (b) Withholding of the Tax shall be made on a payroll period basis for each payroll period during the fiscal year in which employee is engaging in an occupation unless the employee is engaging in concurrent employment. For purposes of determining the pro-rata share, the employer shall round down the amount of the Tax collected each payroll period to the nearest one-hundredth of a dollar. If employment of an employee subject to withholding is subsequently terminated, the terminated employee shall be liable for the outstanding balance of the Tax due.
- (c) If a person who claimed an exemption for a fiscal year and filed an exemption certificate pursuant to subsection (b) of Section 10 becomes subject to the Tax for

that year, the employer shall withhold the tax for the first payroll period after receipt of notification that the employee is subject to the Tax in a lump sum equal to the amount of tax which was not withheld due to the exemption plus the per payroll amount due for that first period. The amount of the Tax withheld plus the per payroll amount due for that first period. The amount of the Tax withheld for the remaining payroll periods in the fiscal Year shall be as calculated in accordance with subsection (b) of this Section.

- (d) Employers shall ensure that certificate forms, supplied by the Collector, for requesting an exemption, as described in subsections (b) or (c) of Section 10, are readily available to employees at all times and shall furnish each new employee with the form at the time of hiring.
- (e) If a principal or other non-principal employer is a higher priority employer because it is located in higher priority political subdivisions, as described in Section 7, withholds the Tax for the fiscal year in any amount and if the employee provides a recent pay statement from the withholding higher priority employer that includes the name of the employer, the length of the payroll period and the amount of the Tax collected, an employer shall refrain from withholding the Tax if the employer provides a pay statement.

If the employee is also self-employed and engaging in a concurrent principal occupation or non-principal occupation which is a higher priority occupation because it is located in a higher priority political subdivisions, as described in Section 7, and pays the Tax for the fiscal year in any amount, an employer shall refrain from withholding the Tax if the employee provides proof of payment of the Tax to the political subdivision where the employee's higher occupation is taxed.

In order for the employer to refrain from withholding, it shall also be necessary for the employee to affirm in writing to the employer that the pay statement provided is from the higher priority employer of that the proof of payment of the Tax was on account of a higher priority occupation, and that the employee will notify other employers of a change in higher priority employer or occupation within two (2) weeks of the occurrence.

- (f) No employer shall be held liable for failure to withhold the Tax or for payment of the withheld tax money to the Collector if the failure to withhold the Tax arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. No employer shall be responsible for investigating exemption certificates or monitoring eligibility or exempting an employee from withholding except where a person with an exemption certificate issued under subsection (b) of Section 10 becomes subject to the Tax as described in subsection (c) of this Section.

SECTION 6: DATES FOR DETERMINING TAX LIABILITY, FILING RETURNS AND MAKING PAYMENT BY EMPLOYERS.

- (a) Each employer shall prepare and file a return showing a computation of the Tax on forms to be supplied to him by the Collector.
- (b) Each employer shall use his employment records from January 1 to March 31 for determining the number of employees from whom the Tax shall be deducted and paid over to the Collector on or before April 30. Supplemental reports shall be made by each employer on July 30, October 30, and January 30 of new employees and additional tax withholdings and any new exemptions or continued employees as reflected on his employment records from 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 July 30, October 30, and January 30, respectively.
- (c) If an employer has employees for whom he is not withholding the Tax pursuant to subsection (a) of Section 5, the employer shall include such employee on his return by setting forth his name, address, social security number, and the name and account number of the employer(s) who withheld the Tax(es) and/or the name of the taxing jurisdiction(s) to whom an employee paid a Tax on a self-employed occupation.

SECTION 7: PRIORITY OF CLAIMS TO COLLECT THE TAX WHEN AN INDIVIDUAL IS ENGAGED IN MORE THAN ONE OCCUPATION.

- (a) Each individual who shall have more than one occupation within the Township shall be subject to the payment of the Tax on his principal occupation by the individual if he is self-employed or to withholding of the Tax by his principal employer if he is employed. If one of his occupations is a self-employed one, he shall pay the Tax in its entirety to the Collector and receive a receipt of payment as described in subsection (e) of Section 9. When the receipt of payment is presented to an employer that employer will not withhold the Tax or part of the Tax by authority of subsection (a) and (e) of Section 5.
- (b) In the event a person is engaged in occupations which requires his working in more than one political subdivision, the first priority political subdivision to collect the Tax shall be the political subdivision in which his principal employer is located or, if self-employed, the political subdivision in which his principal occupation is located. If the political subdivision where the principal employer or principal occupation is located does not collect the Tax, the second priority political subdivision to collect the Tax, Tax shall be the political subdivision in which the person resides and works to the extent a Tax is not levied by the first priority political subdivision. The third priority political subdivision to collect the Tax shall be the political subdivision in which a person is working and which imposes the Tax nearest in miles to the person's home to the extent a Tax is not levied by the first and second priority political subdivision. The place where a

person works and the priority of collection shall be determined as of the day the taxpayer first becomes subject to the tax during the fiscal year.

- (c) It is the intent of this provision that no person shall pay more than fifty-two dollars (\$52.00) in any fiscal year as a Tax, irrespective of the number of political subdivisions within which such person may be employed within any given fiscal year. In case of dispute, the sum of Tax receipts which are not duplications from taxing jurisdictions, any other appropriate evidence of payment and/or the most recent pay statements from an employer indicating accumulated and prospective withholding of Tax actually due to higher priority taxing political subdivisions for that fiscal year, equaling at least \$52.00 shall constitute prima-facie certification of payment to all other political subdivisions. Any Tax paid, withheld, or prospectively to be withheld, that is not to a higher priority taxing jurisdiction should not be included in determining this \$52.00 amount. An employee should apply for refund for such amounts paid to taxing jurisdictions of lesser priority.

SECTION 8: DATES FOR DETERMINING TAX LIABILITY, FILING RETURNS AND MAKING PAYMENT BY SELF-EMPLOYED INDIVIDUALS.

- (a) All self-employed individuals who perform services of any type or kind, engaged in any occupation or profession within the Township shall be required to comply with this Ordinance and pay the Tax to the Collector as set forth in Section (6)(b) of this Ordinance, or as soon thereafter as he engages in an occupation. The Collector, as the Agent of the Township, shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- (b) In the event a self-employed person is engaged in more than one occupation within or without the Township or an occupation which requires his working in more than one political subdivision during the year, reporting priority of claims and prima-facie certification of payment shall be in accordance with subsection (b) of Section 7.
- (c) Individuals employed within the Township who are not exempt from the Tax pursuant to Section 10 and whose employer is not legally required to withhold the Tax shall be considered self-employed persons for purposes of this Ordinance.

SECTION 9: RESPONSIBILITIES OF NONRESIDENT EMPLOYERS, THEIR EMPLOYEES AND SELF-EMPLOYED INDIVIDUALS.

- (a) All employers and self-employed individuals residing or having their place of business outside of the Township but who perform services of any type or kind, or engage in any occupation or profession within the 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 the Township.

- (b) Any individual engaged in an occupation within the Township and an employee of a nonresident employer may, for the purpose of this Ordinance be considered a self-employed person, and in the event the Tax is not paid, the Township shall have the option of proceeding against either the employer or employee for the collection of the Tax as hereinafter provided.

SECTION 10: EXEMPTIONS.

- (a) Whenever it occurs that an individual is engaged in a business or occupation or businesses or occupations within the corporate limits of the Township from which he derives in the aggregate less than twelve thousand dollars (\$12,000.00) per year earned income and net profits from all sources within the limits of the Township and a Tax was withheld, such individual may file a "Claim for Refund," as described in subsection (d) of Section 11.
- (b) Whenever it occurs that an individual is engaged in a business or occupation or businesses or occupations within the limits of the Township from which he reasonably expects to derive in the aggregate less than twelve thousand dollars (\$12,000.00) per fiscal year earned income and net profits from all sources within the corporate limits of the Township, such individual may file a certificate with the Collector, as the agent of the Township and his employer in the Township, directing that employer not to withhold the Tax. The certificate shall be in a form approved by the Collector and have attached to it a copy of all the individual's last pay stubs or W-2 forms from employment and any net profits from businesses with the Township for the fiscal year prior to the fiscal year for which the individual is requesting an exemption.
- (c) Whenever it occurs that an individual 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 it, as a result of military service, the person is blind, paraplegic, or a double or triple 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, such individual may, on proof of such disability filed with the Collector, file an exemption certificate with the Collector, as the agent of the Township and his employer in the Township directing that employer not to withhold the Tax or file a "Claim for Refund," as described in subsection (d) of Section 11.
- (d) Whenever it occurs that an individual is serving as a member of a reserve or component of the armed forces and is called to active duty at any time during a fiscal year, such individual may file a "Claim for Refund," as described in subsection (d) of Section 11.

SECTION 11: ADMINISTRATION OF TAX.

- (a) It shall be the duty of the Collector to accept and receive payment of this tax, penalties, interest thereon and costs of collection 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, penalties, interest thereon and costs of collection were received.
- (b) The Collector is hereby charged with the administration and enforcement of this ordinance and is hereby as the agent of the Township, charged and empowered to, prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Ordinance; examine and correct 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, or any payment made by a taxpayer who is engaged in a business or occupation or businesses or occupations within the limits of the Township. Any person aggrieved by any decision of the Collector shall have the right to appeal to the Court of Common Pleas of Cumberland County, Pennsylvania 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.
- (d) The Collector, as the agent of the Township, is hereby authorized to make refunds for overpayments of the Tax or payments or withholding of the Tax from exempt persons within three (3) years of the due date for filing a return as extended or one (1) year after payment of the Tax, whichever is later, consistent with 53 Pa.C.S. 8425 and 8426. Refunds made within seventy-five (75) days of a refund request or seventy-five (75) days after the last day an employer is required to remit the Tax for the last quarter of the fiscal year pursuant to Section 7 shall not be subject to interest imposed under 53 Pa.C.S. 8426. Collector shall only provide refunds for amounts overpaid in a fiscal year that exceed one dollar (\$1.00).

SECTION 12: COLLECTION OF UNPAID TAXES AND ENFORCEMENT OF ACTIONS FOR VIOLATION OF THE ORDINANCE.

- (a) In the event that the Tax imposed under this Ordinance remains due or unpaid thirty (30) days after the due dates above set forth, the Collector may sue for the recovery of the Tax due or unpaid under this Ordinance together with interest and penalty.

- (b) If for any reason the Tax is not paid when due, interest at the rate of six (6) percent on the amount of such tax shall be calculated beginning with the due date of the Tax and a penalty of six (6) percent shall be added to the flat rate of the Tax for nonpayment thereof.
- (c) Collector may impose on and collect from delinquent taxpayers and retain all reasonable costs of collection incurred by Collector in its enforcement and collection of delinquent Tax payment provided such collection and enforcement action occurs within five (5) years after the last day of the year in which the tax was first due and provided Collector reports the total of such cost collections to the Township at least annually.

SECTION 13: RESTRICTED USE OF REVENUE.

Funds derived from the Tax may only be used for the following purposes: (a) Not less than twenty-five percent (25%) of the funds derived from the Tax shall be used for emergency services, which shall include emergency medical services, police services and/or fire services, and, the remainder to be used for (b) road construction and/or maintenance.

SECTION 14: SEPARABILITY.

The provisions of this Ordinance are severable and if any of its provisions shall be held as 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 15: SAVING CLAUSE.

- (a) Nothing contained in this Ordinance shall be construed to empower the Township to levy and collect the Tax hereby imposed on any occupation not within the taxing power of the 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 such tax, or the validity of the tax so imposed on the other persons or individuals as herein provided.

SECTION 16: REPEAL OF OCCUPATIONAL PRIVILEGE TAX.

The tax on real property is hereby repealed.

SECTION 17: EFFECTIVE DATE.

This Ordinance shall become effective immediately.

DULY ENACTED AND ORDAINED this 10th day of May, 2018, by the Board of Supervisors of Penn Township, Pennsylvania in public session duly assembled.

**PENN TOWNSHIP
CUMBERLAND COUNTY,
PENNSYLVANIA**



GARY MARTIN, Chairman

KENNETH SHEAFFER, Vice Chairman



RON TRITT, Supervisor

ATTEST:



VICKI KNEPP, Secretary